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ABSTRACT

The compilation provides the full texts of federal legislation related to elementary secondary education and education of the handicapped and related programs. The following statutes are included: "Act of November 2, 1921" (Snyder Act); "Act of April 16, 1934" (Johnson-O'Malley Act); "Adult Education Act"; "Allen J. Ellender Fellowship Program"; "Anti-Drug Abuse Act of 1986, Title IV"; "Bilingual Education Act"; "Developmental Disabled Assistance and Bill of Rights Act, Section 204"; "Education Amendments of 1978, Title XI--Indian Education"; "Education Consolidation and Improvement Act of 1981"; "Education for Economic Security Act"; "Education of the Deaf Act of 1986"; "Education of the Handicapped Act"; "Elementary and Secondary Education Act of 1965"; "Emergency Immigrant Education Act of 1984"; "Federal Property and Administrative Services Act of 1949"; "Handicapped Children's Protection Act of 1986"; "Human Services Reauthorization Act (Title IX)"; "Indian Education Act"; "Indian Education Assistance Act"; "Indian Elementary and Secondary School Assistance Act"; "Indian Self-Determination and Education Assistance Act"; "Library Services and Construction Act"; "National Commission on Libraries and Information Sciences Act"; "Omnibus Budget Reconciliation Act of 1981, Section 505"; "Public Law 95-134" (Consolidated Grants to Insular Areas); "Public Law 815, 81st Congress" (Impact Aid); "Public Law 874, 81st Congress" (Impact Aid); "Refugee Education Assistance Act of 1980"; and "Women's Educational Equity Act of 1978." (DB)

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[COMMITTEE PRINT]

100th Congress
1st Session

HOUSE OF REPRESENTATIVES

A COMPILATION OF FEDERAL EDUCATION LAWS

VOLUME II—ELEMENTARY AND SECONDARY EDUCATION, EDUCATION OF THE HANDICAPPED, AND RELATED PROGRAMS

As Amended Through December 31, 1986

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

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PART I—ELEMENTARY AND SECONDARY PROGRAMS

Elementary and Secondary Education Act of 1965

TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN[1]

DECLARATION OF POLICY

SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children and of handicapped, neglected, and delinquent children, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to help meet the special educational needs of such children.

(20 U.S.C. 2701) Enacted Apr. 11, 1965, P.L. 89–10, Title I, sec. 2, 79 Stat. 27; redesignated and amended Jan. 2, 1968, P.L. 90–247, Title I, secs. 108(a)(2), 110, 81 Stat. 786, 787; amended Apr. 13, 1970, P.L. 91–230, sec. 113(b)(2), 84 Stat. 126; amended Nov. 1, 1978, P.L. 95–561, sec. 101(a), 92 Stat. 2153.

DURATION OF ASSISTANCE

SEC. 102. During the period beginning October 1, 1978, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

(20 U.S.C. 2702) Enacted Apr. 11, 1965, P.L. 89–10, sec. 2, 79 Stat. 27; amended Nov. 3, 1966, P.L. 89–750, sec. 101, 80 Stat. 1191; redesignated and amended Jan. 2, 1968, P.L. 90–247, secs. 108(a)(2), 110, 301(a), 81 Stat. 786, 787, 813; amended Apr. 13, 1970, P.L. 91–230, secs. 101(a), 113(b)(3), 84 Stat. 121, 126; amended Aug. 21, 1974, P.L. 93–380, sec. 101(a)(1), 88 Stat. 488, amended Apr. 21, 1976, P.L. 94–273, sec. 2(12), 90 Stat. 375; amended Sept. 24, 1977, P.L. 95–112, sec. 2(a)(1), 91 Stat. 911; amended Nov. 1, 1978, P.L. 95–561, sec. 101(a), 92 Stat. 2153.

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[1] Title I of the Elementary and Secondary Education Act of 1965 was revised and reenacted by section 101(a) of the Education Amendments of 1978, P.L. 95–561, 92 Stat. 2152 (see 20 U.S.C. 821 note).

Part A—Programs Operated by Local Educational Agencies

Subpart 1—Basic Grants

GRANTS—AMOUNT AND ELIGIBILITY

Sec. 111. (a) Amount of Grants.—(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 156), and there is authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1976 for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsecton (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

(2)(A) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States.

(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Commissioner.

(C) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year (exclusive of any amount received under paragraph (3)(D) shall be the amount arrived at by multiplying the number of children counted under subsection (c) for Puerto Rico by the product of—

(i) the percentage determined under the preceding sentence and

(ii) 32 per centum of the average per pupil expenditure in the United States.

(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Commissioner for authority during any particular fiscal year to make the allocations under this part (other than section 117) directly to local educational agencies without regard to the counties. If the Commissioner approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Commissioner for a final determination.

(D)(i) From one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979, there shall be allotted to each State an amount which bears the same ratio to such excess as the product of—

(I) the number of children in such State aged five to seventeen, inclusive, from families below 50 per centum of the median national income for four-person families from the 1975 survey of income and education conducted by the Bureau of the Census,

multiplied by—

(II) 40 per centum of the amount determined under the second sentence of paragraph (2)(A) and, in the case of Puerto Rico, the product determined under subparagraph (C) (i) and (ii) of this paragraph.

bears to the sum of such products for all the States.

(ii) In any case in which the Commissioner finds that a State's percentage decrease in children from low-income families exceeds 25 per centum between the 1970 decennial census, as adjusted, and the 1975 survey of income and education, the Commissioner shall allocate funds based on the most current valid data available or based on a resurvey of the affected State by the Bureau of the Census.

(iii) From the amount allotted to each State under division (i), the amount which each local educational agency in that State shall be eligible to receive under this subparagraph shall be an amount which bears the same ratio to the total amount allotted to such State under this subparagraph as the amount such local educational agency receives under paragraph (2) bears to the total amount of funds made available to local educational agencies in such State under such paragraph.

(E) From the remaining one-half of any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for fiscal year 1979 after the application of subparagraph (D), there shall be allotted to each State an amount determined in accordance with paragraph (2) of this subsection.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) Minimum Number of Children To Qualify.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance

with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) Children To Be Counted.—(1)(A) The number of children to be counted for purposes of this section, other than for subsection (a)(3)(D), is the aggregate of—

(i) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

(ii) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), subject to subparagraph (B) of this paragraph, and

(iii) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(B) For the purpose of division (ii) of subparagraph (A) of this paragraph the number of children aged five through seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B) shall be reduced by one-third for fiscal year 1979; except that such reduction shall not be applicable with respect to determinations made under section 117(b) of the number of children to be counted under this subsection.

(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) PROGRAM FOR INDIAN CHILDREN.—(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 3 of this part and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 171 and 172.

(20 U.S.C. 2711) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 28; amended July 21, 1965, P.L. 89-77, sec. 3, 79 Stat. 243; amended Nov. 1, 1965, P.L. 89-313, sec. 6(a), 79 Stat. 1161, amended Nov. 3, 1966, P.L. 89-750, secs. 102, 103(a), 104-108, 113(b), 117, 80 Stat. 1191-1198; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 101, 103(a), 104, 105, 107, 108(a), 81 Stat. 783-787; amended Oct. 16, 1968, P.L. 90-576, sec. 307, 82 Stat. 1097; amended Apr. 13, 1970, P.L. 91-230, secs. 101(b), 103-107, 113, 84 Stat. 121-124, 126; amended and subsection 103(a)(1)(C) added June 23,

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TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 112. Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

(20 U.S.C. 2712) Enacted Nov. 3, 1966, P.L. 89-750, sec. 109, 80 Stat. 1195; redesignated Jan. 2, 1968, P.L. 90-247, secs. 108(a)(4), 110, 81 Stat. 786, 787; redesignated Apr. 13, 1970, P.L. 91-230, sec. 113(b)(4), 84 Stat. 126; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2158.

Subpart 2—Special Grants

SPECIAL INCENTIVE GRANTS

SEC. 116. (a) ELIGIBILITY.—(1) Each local educational agency that is eligible to receive a payment under section 111 for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program meeting the requirements of paragraph (2) under which financial assistance is provided to meet the special education needs of educationally deprived children.

(2) A State program meets the requirements of this subsection if, under State law—

(A) the program meets the requirements of section 131(c); and

(B) not less than 50 per centum of the funds expended under the program in any school district of any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this subpart is expended in school attendance areas of such agencies having high concentrations of children from low-income families.

(b) AMOUNT OF GRANTS.—(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements of paragraph (2) of subsection (a) of this section.

(2) The amount of the additional grant for each local educational agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to such State under subsection (c) of this section as the amount allocated to such local educational agency under section 111 of this title for such fiscal year

bears to the aggregate amount allocated to all local educational agencies in the State under section 111 for such fiscal year.

(3) The aggregate amount which the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local educational agencies in such State are eligible to receive under section 111 of this title for such fiscal year.

(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subparagraph (2)(B) of subsection (a) of this section relating to the percentage of State funds expended in school attendance areas having high concentrations of children from low-income families and required by paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in that paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning that system.

(c) Payments; Use of Funds.—(1) Except as provided in paragraph (3), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in such State are entitled under subsection (b) after any ratable reductions under subsection (d).

(2) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to such State under section 191 for such year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under subsection (b)(2).

(3) Whenever the expenditures made by a State in accordance with subsection (a) in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to such State under this section shall, subject to subsection (d), not be less than the amount paid to such State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which such State is entitled for such fiscal year under paragraph (1) of subsection (b).

(4) The amount paid to a local educational agency under this part shall be used by such agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to all other requirements in subpart 3 of this part.

(d) Ratable Reductions.—If the sums appropriated pursuant to subsection (e) for a fiscal year are not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under this section, the amount to be paid such agencies shall be ratably reduced to the extent necessary to bring such payments within the limits of the amounts so appropriated. In case additional funds become available for making payments under this section for that year, such reduced amounts shall be increased on the same basis that they were reduced.

(e) Appropriations.—There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for the three succeeding fiscal years.

(20 U.S.C. 2721) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 30; amended Nov. 3, 1966, P.L. 89-750, secs. 103(b), 108(b)(1), 2, 110, 111(a)-(e), 80 Stat. 1192, 1195, 1196; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 103(b), 106, 108(a)(2), 109, 110, 81 Stat. 783, 784, 786, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, secs. 108, 109(a), 110, 111(b), 113(b)(3) and (4), 84 Stat. 124-126, 128; amended June 23, 1972, P.L. 92-318, sec. 507(a) and (b), 86 Stat. 352; Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 496, 497; amended Oct. 12, 1976, P.L. 94-482, sec. 501, 90 Stat. 2236; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2158, 2159; amended Aug. 6, 1979, P.L. 96-46, sec. 1(1), 93 Stat. 338.

GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

Sec. 117. (a) Purpose.—It is the purpose of this section to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.

(b) Eligibility for and Amount of Special Grants.—(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

(A) the number of children counted under section 111(c) of this title for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or

(B) the number of children counted under section 111(c) exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year,

except that no such State shall receive less than one-quarter of 1 per centum of the sums appropriated under subsection (d) for such section for such fiscal year.

(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—

(A) the number of children in excess of five thousand counted under section 111(c) for the preceding fiscal year or the number of children counted under that section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county for that preceding fiscal year, whichever is greater, and

(B) the quotient resulting from the division of the amount determined for those agencies under section 111(a)(2) of this title for the fiscal year for which the determination is being made divided by the total number of children counted under section 111(c) for that agency for the preceding fiscal year.

(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

(4) For the purposes of this section, the Commissioner shall determine the number of children counted under section 111(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement for such county is determined under section 111.

(5) Funds allocated to counties under this part shall be allocated by the State educational agency, pursuant to regulations established by the Commissioner, among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of this title) as determined on the basis of the available data which such State educational agency determines best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families, except that in determining the number of such children in any local educational agency in which less than 20 per centum of the children are from low-income families, each such child shall be counted as a fraction in which the numerator is the percentage of low-income children in the school district of that agency and the denominator is 20.

(c) PAYMENTS; USE OF FUNDS.—(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 191 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to the other requirements in subpart 3 of this part.

(d) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

(20 U.S.C. 2722) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2159-2161.

Subpart 3—Program Requirements and Applications

LOCAL PROGRAM APPLICATION

SEC. 121. A local educational agency may receive a grant under this title for any fiscal year if it has on file with the State educational agency a current application, approved by the State educational agency, describing the programs and projects to be conducted with assistance provided under this title for a period of not to exceed three fiscal years, including the fiscal year for which the grant is to be made. Such an application may be amended at any time to describe changes in or additions to the activities originally set forth in the application. An application or amendment thereto shall be approved by the State educational agency upon its determination that the application provides for the use of such funds in a manner which meets the requirements of this subpart and is consistent with the assurances contained in the general application required by section 436 of the General Education Provisions Act, subject to such basic criteria as the Commissioner may prescribe.

(20 U.S.C. 2731) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2161.

DESIGNATING SCHOOL ATTENDANCE AREAS

SEC. 122. (a) GENERAL PROVISIONS.—(1) Except as provided in paragraph (2) and subsections (b), (c), (d), and (e) of this section, a local educational agency shall use funds received under this title in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as "eligible school attendance areas"), and where funds under this title are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children from low-income families. A local educational agency may carry on a program or project assisted under this title in an eligible school attendance area only if it also carries on such program or project in all other eligible school attendance areas which are ranked higher under the first sentence. A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this title and under a State program meeting the requirements of section 131(c) in that fiscal year in each school attendance area of that agency in which projects assisted under this title were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year. The same measure of low income, which shall be chosen by the local educational agency and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

(2)(A) Notwithstanding the provisions of paragraph (1), in the selection of eligible school attendance areas, a local educational agency may, subject to the requirements of subparagraph (B), choose to rank all its school attendance areas as provided in paragraph (1) and also rank all its school attendance areas according to educational deprivation, and then serve all its school attendance areas ranked according to paragraph (1) in the order of their ranking under such paragraph unless another school attendance area ranked according to education deprivation has a substantially greater number or a substantially greater percentage of educationally deprived children, in which case such school attendance area may be served before service is provided to other school attendance areas ranked pursuant to paragraph (1) which have a substantially smaller number or substantially smaller percentage of educationally deprived children. In the event that a local educational agency chooses to exercise the option provided under this paragraph, it shall not serve any more school attendance areas than the number identified pursuant to paragraph (1).

(B) Any local educational agency desiring to use the alternative ranking system described in subparagraph (A) shall, with the consent of the district-wide parent advisory council of that agency, apply for permission to use such system to the State educational agency of the State wherein such local educational agency is located. Such application shall be approved by such State educational agency only if such State educational agency finds that the use of such alternative ranking system will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by such local educational agency. Whenever a school district exercises the option under this paragraph and actually serves one or more school attendance areas ranked under this paragraph, none of the areas so ranked but not served shall be considered to be eligible school attendance areas under this title.

(b) Use of Enrollment Data in Certain Schools.—A local educational agency may use funds received under this title for educationally deprived children who are in a school of such agency which is not located in an eligible school attendance area, but at which the proportion of children in actual average daily attendance who are from low-income families is substantially the same as the proportion of such children in such an area of that agency (hereinafter referred to as an "eligible school").

(c) Continuation of Eligibility for Certain School Attendance Areas or Schools.—An eligible school attendance area or an eligible school may be designated a project area under subsection (a) or a project school under subsection (b) for a fiscal year, even though it does not qualify under such subsections for that fiscal year, if such area or school was so designated in either of the two preceding fiscal years.

(d) Lower Ranked School Attendance Areas or Schools Having Substantially Greater Incidences of Educationally Deprived Children Than Higher Ranked Areas or Schools.—The Commissioner shall issue regulations providing for an exception to subsection (a) permitting children in lower ranked eligible school attendance areas or eligible schools having substantially greater incidences of educational deprivation than areas or schools ranked higher under subsections (a) or (b) to receive assistance before such children in higher ranked areas or schools receive such assistance.

(e) Skipping Higher Ranked School Attendance Areas or Schools Receiving Services of the Same Nature and Scope From Non-Federal Sources.—The Commissioner shall issue regulations providing for an exception to subsection (a) or (b) permitting local educational agencies to skip higher ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this title. Whenever children residing in eligible areas and attending private elementary and secondary schools are ineligible for services of the same nature and scope from non-Federal sources, such children shall be selected for programs and projects under this title without regard to the provisions of this subsection. The number of children receiving services under this title who attend private elementary and secondary schools shall be determined in each local educational agency receiving assistance under this title without regard to non-Federal compensatory education funds which serve children in public elementary and secondary schools who are also eligible for assistance under this title. Children attending private elementary and secondary schools who receive assistance under this title shall be identified in accordance with this section and without regard to skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources.

(20 U.S.C. 2732) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2161-2163.

CHILDREN TO BE SERVED

SEC. 123. (a) GENERAL PROVISIONS.—Except as provided in subsections (b), (c), and (d) of this section and section 133, a local educational agency must use funds received under this title for educationally deprived children, identified in accordance with section 124(b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 122.

(b) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN WHO ARE NO LONGER IN GREATEST NEED OF ASSISTANCE.—Whenever for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 122, does not meet the requirement of subsection (a) requiring that he be in greatest need of special assistance, but did meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this title for the current fiscal year.

(c) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN TRANSFERRED TO INELIGIBLE AREAS OR SCHOOLS IN THE SAME YEAR.—Educationally deprived children who begin participation in a program or project assisted under this title, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this title, may, if the local agency so determines, continue to participate in a program or project funded under this title for the duration of that same school year.

(d) SKIPPING CHILDREN DETERMINED TO BE IN GREATEST NEED OF ASSISTANCE WHO ARE RECEIVING SERVICES OF THE SAME NATURE AND SCOPE FROM NON-FEDERAL SOURCES.—The Commissioner shall issue regulations providing for an exemption to subsection (a) permitting local educational agencies, in providing services under this title, to skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this title.

(20 U.S.C. 2733) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2163, 2164; amended Aug. 6, 1979, P.L. 96-46, sec. 1(2), 93 Stat. 338.

REQUIREMENTS FOR DESIGN AND IMPLEMENTATION OF PROGRAMS

SEC. 124. (a) PURPOSE OF PROGRAM.—A local educational agency may use funds received under this title only for programs and projects which are designed to meet the special educational needs of the children referred to in section 123. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, and, where necessary, the construction of school facilities, and planning for such programs and projects.

(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this title only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas and to select those educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

(c) PLANNING.—A local educational agency may use funds received under this title for planning only if (1) the planning relates directly to programs or projects to be assisted under this title and has resulted, or is reasonably likely to result, in a program or project to be assisted under this title, and (2) such funds are needed because of the innovative nature of the program or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this title. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 111 or $2,000, whichever is greater.

(d) SUFFICIENT SIZE, SCOPE, AND QUALITY.—A local educational agency may use funds received under this title only for programs and projects which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, and to this end such programs and projects must involve an expenditure of not less than $2,500, except that a State educational agency may reduce such $2,500 requirement for a local educational agency if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for such local educational agency to join effectively with other local educational agencies for the purpose of meeting the requirement.

(e) EXPENDITURES RELATED TO RANKING OF PROJECT AREAS AND SCHOOLS.—A local educational agency may receive funds under this title only if such funds are allocated among project areas or schools for programs and projects assisted under this title on the basis of the number and needs of children to be served as determined in accordance with section 123.

(f) COORDINATION WITH OTHER PROGRAMS.—(1) A local educational agency may receive funds under this title only if it demonstrates that, in the development of its application, it has taken into consideration benefits and services which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort and to ensure that all programs and projects complement each other, it has considered suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

(2) A local educational agency may use funds received under this title for health, social, or nutrition services for participating children under this title only if such agency has requested from the State educational agency assistance in locating and utilizing other Federal and State programs to provide such services.

(g) EVALUATIONS.—A local educational agency may receive funds under this title only if—

(1) effective procedures are adopted for evaluating, in accordance with the evaluation schedule promulgated by the Commissioner under section 183(b), the effectiveness of the programs assisted under this title in meeting the special educational needs of educationally deprived children;

(2) such evaluations will include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this title have achieved their goals, including the requirements of section 130, and will also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

(3) the evaluation will address the purposes of the programs, including the requirements of section 130, and the results of the evaluations will be utilized in planning for and improving projects and activities carried out under this title in subsequent years.

(h) INFORMATION DISSEMINATION.—A local educational agency may receive funds under this title only if effective procedures are in existence for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

(i) TEACHER AND SCHOOL BOARD PARTICIPATION.—A local educational agency may receive funds under this title only if teachers in schools participating in programs assisted under this title, and school boards or comparable authority responsible to the public with jurisdiction over the schools, have been involved in planning for those programs and will be involved in the evaluation thereof.

(j) PARENT PARTICIPATION.—A local educational agency may receive funds under this title only if parents of children participating in programs assisted under this title are permitted to participate in the establishment of such programs and are informed of, and permitted to make recommendations with respect to, the instructional goals of the program and the progress of their children in such program, and such parents are afforded opportunities to assist their children in achieving such goals.

(k) Sustaining Gains.—A local educational agency may receive funds under this title only if, in developing programs to be assisted under this title, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as summer programs and intermediate and secondary level programs.

(l) Training of Education Aides.—A local educational agency may receive funds under this title for programs and projects involving education aides, including volunteers, only if it has in effect well-developed plans providing for coordinated programs of training in which education aides, including volunteers, and the professional staff whom they are assisting will participate together.

(m) Control of Funds.—A local educational agency may receive funds under this title only if control of such funds, and title to property derived therefrom, is in a public agency for the uses and purposes provided in this title, and only if a public agency will administer such funds and property.

(n) Construction.—A local educational agency may use funds received under this title for projects for construction of school facilities only if—

(1) the project is not inconsistent with overall State plans for the construction of school facilities and the requirements of section 433 of the General Education Provisions Act are complied with on all such projects.

(2) in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to ensure that facilities constructed with the use of Federal funds under this title are, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by, handicapped persons, and

(3) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(o) Jointly Operated Programs.—Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this title.

(20 U.S.C. 2734) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2164-2166; amended Aug. 6, 1979, P.L. 96-46, sec. 1(3), 93 Stat. 338.

PARENTAL INVOLVEMENT

Sec. 125. (a) Establishment of Advisory Councils.—(1) A local educational agency may receive funds under this title only if it establishes an advisory council for its entire school district which—

(A) has a majority of members who are parents of children to be served by projects assisted under this title, who shall either be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

(B) includes such additional members as may be (i) elected by the project area or school advisory councils required to be established by paragraph (2)(A) of this subsection, or (ii) elected by the parents in such areas;

(C) includes representatives of children and schools eligible to be served by, but not currently participating in, programs assisted with funds provided under this title, who shall be elected by the parents in such areas; and

(D) is established in accordance with regulations to be issued by the Commissioner which provide alternative models to carry out subparagraphs (A) through (C) of this paragraph.

(2)(A) A local educational agency may receive funds under this title only if it establishes an advisory council for each project area or project school, except as provided in subparagraph (B), which—

(i) has a majority of members who are parents of children to be served by programs assisted under this title; and

(ii) is composed of members elected by the parents in each project area or project school.

(B) In the case of any project area or project school in which not more than one full-time equivalent staff member is paid with funds provided under this title, and in which not more than forty students participate in such programs, the requirements of subparagraph (A) shall be waived.

(C) In the case of any project area or project school in which 75 or more students are served by programs assisted by funds provided under this title, each such project area or project school advisory council, in addition to meeting the requirements of subparagraph (A), shall—

(i) be composed of not less than 8 members, who shall serve for terms of two years, after which time they may be re-elected;

(ii) elect officers of the council after it has been fully constituted; and

(iii) meet a sufficient number of times per year, according to a schedule and at locations to be determined by such council.

(3) Any individual who is a teacher at a school serving a project area or is a parent of a child residing in an eligible school attendance area or attending an eligible school shall be eligible to be elected as a member of the district-wide advisory councils established pursuant to paragraph (1), but nothing in this sentence shall preclude the eligibility of other individuals who are residents in that district. No individual who is a teacher at a project school or a school serving a project area shall be ineligible to be elected as a member of a district-wide or project area or school advisory council on the basis of residency outside such area or district.

(b) Responsibilities of Advisory Councils.—Each local educatonal agency shall give each advisory council which it establishes under subsection (a) responsibility for advising it in planning for, and implementation and evaluation of, its programs and projects assisted under this title.

(c) Access to Information.—(1) Each local educational agency shall provide without charge to each advisory council established by such an agency under subsection (a) of this section, and, upon request, to each member of such advisory council—

(A) a copy of the text of this title;

(B) a copy of any Federal regulations and guidelines issued under such title; and

(C) a copy of appropriate State regulations and guidelines associated with this title.

(2) Each State educational agency shall provide a copy of any report resulting from State or Federal auditing, monitoring, or evaluation activities in any district to the parent advisory council established pursuant to subsection (a)(1) in such district.

(d) TRAINING PROGRAMS.—Each local educational agency application for funding under this title shall describe a program for training the members of advisory councils established pursuant to subsection (a) to carry out their responsibilities as described in subsection (b). Such training program—

(1) shall be planned in full consultation with the members of such advisory councils;

(2) shall provide each member of each such council with appropriate training materials; and

(3) may permit the use of funds under this title for expenses associated with such training, including expenses associated with the attendance of such members at training sessions.

(e) WORKSHOPS ON PARENTAL INVOLVEMENT.—For each fiscal year for which payments are made to State educational agencies under this title, the Commissioner shall sponsor workshops in the several regions of the United States which shall be designed to assist local educational agencies to work with and provide training to parent advisory councils established under subsection (a) of this section and to facilitate parental involvement in the programs conducted under this title. The workshops shall be planned and conducted in consultation with members of parent advisory councils in the region served by the workshop.

(f) ASSESSMENT OF PARENTAL INVOLVEMENT AND TRAINING.—The National Institute of Education shall assess the effectiveness of (1) various forms of parental involvement, including parent advisory councils, on school governance, student achievement, and other purposes of this title, and (2) various methods of training the members of parent advisory councils, and shall report the results of such assessments to the Congress and the public.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

(20 U.S.C. 2735) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2167; 2168; amended Aug. 6, 1979, P.L. 96-46, sec. 1(4) and (5), 93 Stat. 338.

FUNDS ALLOCATION

SEC. 126. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver

would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under paragraph (1), for years subsequent to the year covered by such waiver. Such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

(b) USE OF FUNDS LIMITED TO EXCESS COSTS.—Subject to the provisions of section 131, a local educational agency may use funds received under this title only for the excess costs of programs and projects referred to in section 124(a). As used in this subsection, the term "excess costs" means costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects.

(c) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 131(b) for the education of pupils participating in programs and projects assisted under this title, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(d) FEDERAL FUNDS REQUIRED TO SUPPLEMENT, NOT SUPPLANT NON-FEDERAL FUNDS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS.—(1) Subject to section 132, a local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for each of the special programs described in subsection (b) of section 131 for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, as to supplant such funds from non-Federal sources.

(2) It shall not be considered a violation of this subsection for a local educational agency, in carrying out a special program described in subsection (b) of section 131, to take into consideration funds made available under this title, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that

would have been made available to such children in the absence of funds under this title.

(3) For purposes of this subsection, the level of funds that, in the absence of funds under this title would have been made available to such children shall be determined by reference to a plan for distributing such special funds. Such plan shall be based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate in eligible school attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such object criteria, must receive assistance under either this title or under such special State or local program before any child who does not satisfy such criteria receives such assistance.

(e) Comparability of Services.—Subject to the provisions of section 131, a local educational agency may receive funds under this title only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title. Where, under regulations of the Commissioner, all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable, in accordance with regulations of the Commissioner, in each project area. Each local educational agency shall report on or before July 1 of each year with respect to its compliance with this subsection, except for local educational agencies which were not required to report upon the date of enactment of the Education Amendments of 1978, unless the Commissioner otherwise provides by regulation.

(20 U.S.C. 2736) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2168-2170.

ACCOUNTABILITY

Sec. 127. (a) Recordkeeping.—Each local educational agency which receives funds under this title shall keep such records and afford such access thereto as the State educational agency shall prescribe, including records which fully disclose the amount and disposition of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of the portion of the cost of the program or project supplied by other sources, and such other records as will facilitate an effective audit. Whenever a local educational agency carries on a single compensatory education program paid for out of funds under this title as well as

State or local funds which meets all of the requirements of this title and whenever, under section 131, the local educational agency excludes expenditures from State and local sources in determining compliance with section 126 (b) and (e), the State educational agency need not require the Federal funds to be accounted for separately. In any proceeding, State or Federal, for the recoupment of any such funds which were misspent or misapplied, the percentage of the funds so misspent or misapplied which shall be deemed to be Federal funds shall be equal to the percentage of the funds used, or intended for use, for the program or project which were Federal funds.

(b) REPORTING.—Each local educational agency which receives funds under this title shall make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs and projects assisted under this title.

(c) ACCESS TO INFORMATION.—Each local educational agency which applies for or receives funds under this title shall make the application and all pertinent documents related thereto available to parents, teachers, and other members of the general public.

(20 U.S.C. 2737) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2170, 2171.

COMPLAINT RESOLUTION

SEC. 128. Each local educational agency which receives funds under this title shall develop and implement, in accordance with criteria prescribed by the Commissioner, written procedures for the resolution of complaints made to that agency by parent advisory councils, parents, teachers, or other concerned organizations or individuals concerning violations of this title, or of applicable provisions of the General Education Provisions Act in connection with programs under this title. Such procedures shall—

(1) provide specific time limits for investigation and resolution of complaints, which shall not exceed thirty days unless a longer period of time is provided by the State educational agency due to exceptional circumstances in accordance with regulations established by the Commissioner;

(2) provide an opportunity for the complainant or the complainant's representative, or both, to present evidence, including an opportunity to question parties involved;

(3) provide the right to appeal the final resolution of the local educational agency to the State educational agency within thirty days after receipt of the written decision; and

(4) provide for the dissemination of information concerning these procedures to interested parties, including all district and school parent advisory councils.

(20 U.S.C. 2738) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2171.

INDIVIDUALIZED PLANS

SEC. 129. It is the intent of the Congress to encourage, whenever feasible, the development for each educationally deprived child participating in a program under this title of an individualized educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, the teacher, a parent or guardian of the child, and, when appropriate, the child.

(20 U.S.C. 2739) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2171.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 130. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of sections 122 and 123, and subsections (a), (b), (d), and (m) of section 124, and subsection (c) of section 126. Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) BY-PASS PROVISION.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this title.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Commissioner shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 2740) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 497, 498; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2171-2173; amended Aug. 6, 1979, P.L. 96-46, sec. 1(6), 93 Stat. 338.

Subpart 4—Exemptions From Certain Program Requirements

EXCLUSIONS FROM EXCESS COSTS AND COMPARABILITY PROVISIONS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS

Sec. 131. (a) In General.—For the purpose of determining compliance with the requirement of section 126(b) (relating to use of funds only for excess costs of programs and projects) and of section 126(e) (relating to comparability of services), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program.

(b) Special Program and State Phase-In Program Defined.—For purposes of this section—

(1) a special program is limited to—

(A) a State compensatory education program which the Commissioner has determined in advance under subsection (e) meets the requirements of subsection (c) and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (c);

(B) a State compensatory education program which the Commissioner has determined in advance under subsection (e) does not satisfy the requirements of subsection (c), but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (c), provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (c); or

(C) a local compensatory education program which the State educational agency has determined in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines is being implemented in accordance with subsection (c); and

(D) a bilingual program for children of limited English proficiency or special educational program for handicapped children or children with specific learning disabilities; and

(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (e) meets the requirements of subsection (d) and which the State educational agency determines will be implemented by local educational agencies in accordance with subsection (d).

(c) STATE AND LOCAL COMPENSATORY EDUCATION PROGRAMS SIMILAR TO TITLE I PROGRAMS.—A State or local program meets the requirements of this subsection if it is similar to programs assisted under this part. The Commissioner shall consider a State or local program to be similar to programs assisted under this part if—

(1) all children participating in the program are educationally deprived,

(2) the program is based on performance objectives related tc educational achievement and is evaluated in a manner consistent with those performance objectives,

(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection, and

(5) the State educational agency monitors performance under the program to assure that the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

(d) CERTAIN STATE PHASE-IN PROGRAMS.—A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

(1) the program is authorized and governed specifically by the provisions of State law;

(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

(3) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

(4) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

(5) the program will benefit all children in a particular school or grade-span within a school;

(6) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to the date of enactment of the Education Amendments of 1978 shall be deemed to begin on the date of enactment of such Amendments;

(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program; and

(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8), and (9) and the State educational agency is complying with paragraph (10).

(e) ADVANCE DETERMINATIONS BY THE COMMISSIONER.—The Commissioner shall make an advance determination of whether or not a State Program described in subsection (b)(1) (A) or (B) or (b)(2) meets the requirements of subsection (c) or meets the requirements of subsection (d). The Commissioner shall require each State educational agency to submit to him the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

(f) ADVANCE DETERMINATION BY THE STATE EDUCATIONAL AGENCY.—The State educational agency shall make an advance determination of whether or not a program described in subsection (b)(1)(C) meets the requirements of subsection (c). The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

(20 U.S.C. 2751) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2173-2175.

LIMITED EXEMPTION TO SUPPLEMENT, NOT SUPPLANT, REQUIREMENT WHERE CERTAIN SPECIAL PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN ARE FULLY FUNDED

SEC. 132. Whenever for a fiscal year—

(1) a local educational agency provides special State and local funds for programs for educationally deprived children which qualify under clause (A), (B), or (C) of section 131(b)(1) for an exception from the comparability and excess costs provisions under such section 131, and

(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this subpart equals the amount such agency is eligible to receive for such fiscal year under section 111(a)(2) (without regard to adjustments under section 193),

then the local educational agency may, without being considered in violation of section 126(d), utilize additional State and local funds for special programs and projects which are solely for educationally deprived children residing in nonproject areas or attending nonproject schools, including areas and schools ineligible for assistance under this title. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds, per child participating in programs in project areas, provided to the agency under this part plus the amount of such special State or local funds provided for use in such areas.

(20 U.S.C. 2752) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2175-2176.

SCHOOLWIDE PROJECTS

SEC. 133. (a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this title and in which not less than 75 per centum of the children are from low-income families (in accordance with criteria established by the Commissioner), the local educational agency may carry out a project under this title to upgrade the entire educational program in that school if the requirements of subsection (b) are met.

(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

(B) an instructional program designed to meet the special needs of all students in the school;

(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

(3) the plan provides for consultation among those individuals as to the educational progress of all students;

(4) the plan has been approved by the advisory council for that school established under section 125;

(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

(6) the plan includes procedures for evaluation involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of those evaluations;

(7)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools;

(B) the local educational agency makes special supplementary State and local funds available for the children in schools described in subsection (a) in amounts which, per child served who is not educationally deprived, equal or exceed the amount of Federal funds provided under this part which, per educationally deprived child served, are made available for children in such schools; and

(C) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year.

(c) Approval of School; Operation of Project.—(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

(2) For any school which has such a plan approved, the local educational agency—

(A) shall, in order to carry out the plan, be relieved of any requirements under this title with respect to the commingling of funds provided under this title with funds available for regular programs;

(B) shall not be required to identify particular children as being eligible to participate in programs assisted under this title; and

(C) shall not be required to demonstrate that services provided with funds under this title are supplementary to the services regularly provided in the school.

(20 U.S.C. 2753) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2176-2177.

NONINSTRUCTIONAL DUTIES

SEC. 134. Notwithstanding any provision of subpart 3 of this part, personnel paid entirely by funds made available under this title may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this title. Such duties may include only those to which similarly situated personnel not hired with funds made available under the title are assigned at the same school site, and for which such similarly situated personnel are paid, and may not exceed the same proportion of total time as similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.

(20 U.S.C. 2754) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2177.

PART B—PROGRAMS OPERATED BY STATE AGENCIES

Subpart 1—Programs for Migratory Children

GRANTS—ENTITLEMENT AND AMOUNT

SEC. 141. (a) ENTITLEMENT.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 142.

(b) AMOUNT OF GRANT.—(1) Except as provided in sections 156 and 157, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 142, the Commissioner shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Commissioner shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

(20 U.S.C. 2761) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 492-494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2177, 2178.

PROGRAM REQUIREMENTS

SEC. 142. (a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Commissioner may approve an application submitted under section 141(a) only upon his determination—

(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964 and under section 303 of the Comprehensive Employment and Training Act;

(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 556 (other than subsection (b)(1)) and section 558 of the Education Consolidation and Improvement Act of 1981;

(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a)); and

(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this paragraph will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this section.

(c) BY-PASS PROVISION.—If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(20 U.S.C. 2762) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 492-494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2178, 2179; amended Aug. 6, 1979, P.L. 96-46, sec. 1(7) and (8), 93 Stat. 338; amended Dec. 8, 1983, P.L. 98-211, sec. 19(a), 97 Stat. 1418.

COORDINATION OF MIGRANT EDUCATION ACTIVITIES

SEC. 143. (a) ACTIVITIES AUTHORIZED.—The Commissioner is authorized to make enter[1] into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

(b) AVAILABILITY OF FUNDS.—The Commissioner shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount which shall not be less than $6,000,000 nor more than 5 per centum of the amount so appropriated.

(20 U.S.C. 2763) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 492-494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2179; amended Aug. 6, 1979, P.L. 96-46, sec. 1(9), 93 Stat. 338; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 904.

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[1] So in law.

Subpart 2—Programs for Handicapped Children

AMOUNT AND ELIGIBILITY

SEC. 146. (a) ELIGIBILITY FOR GRANT.—A State agency which is directly responsible for providing free public education for handicapped children (as that term is defined in section 602(1) of the Education of the Handicapped Act), shall be eligible to receive a grant under this subpart for any fiscal year.

(b) AMOUNT OF GRANT.—(1) Except as provided in sections 156 and 157, the grant which a State agency referred to in subsection (a) (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such handicapped children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

(c) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In the case where a child described in subsection (a) leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 147.

(20 U.S.C. 2771) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 491, 492; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2180.

PROGRAM REQUIREMENTS

Sec. 147. A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 146 will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

(20 U.S.C. 2772) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 491, 492; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2180, 2181; amended Aug. 6, 1979, P.L. 96-46, sec. 1(10), 93 Stat. 339; amended Dec. 8, 1983, P.L. 98-211, sec. 19(a), 97 Stat. 1418.

Subpart 3—Programs for Neglected and Delinquent Children

AMOUNT AND ENTITLEMENT

Sec. 151. (a) Entitlement to Grants.—A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

(b) Amount of Grant.—(1) Except as provided in sections 156 and 157, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

(20 U.S.C. 2781) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2181.

PROGRAM REQUIREMENT

SEC. 152. (a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981.

(b) THREE-YEAR PROJECTS.—Where a State agency operates programs under this title in which children are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.

(20 U.S.C. 2782) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2181, 2182; amended Aug. 6, 1979, P.L. 96-46, sec. 1(11), 93 Stat. 339; amended Dec. 8, 1983, P.L. 98-211, sec. 19(a), 97 Stat. 1418.

TRANSITION SERVICES

SEC. 153. (a) GRANTS AUTHORIZED.—The Commissioner is authorized to make grants to State and local educational agencies to support projects to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs. Grants under this section shall be used to provide special educational services for such children in schools other than State operated institutions.

(b) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated for the purposes of this section for any fiscal year, not to exceed 5 per centum of the amount State agencies are entitled to receive under section 151 for that year.

(20 U.S.C. 2783) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2182.

Subpart 4—General Provisions for State Operated Programs

RESERVATION OF FUNDS FOR TERRITORIES

SEC. 156. There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

(20 U.S.C. 2791) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 494; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2182.

MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

SEC. 157. No State shall receive in any fiscal year prior to October 1, 1983, pursuant to subpart 1, 2, or 3 of this part an amount which is less than 85 per centum of the amount which that State received in the prior fiscal year pursuant to the comparable sections of this title as in effect immediately preceding the enactment of the Education Amendments of 1978 or the comparable subpart of this part, whichever was in effect for such prior fiscal year, and, for any fiscal year ending prior to October 1, 1982, no State shall receive, pursuant to subpart 1 of this part, an amount which is less than 100 per centum of the amount that State received in the prior fiscal year pursuant to the comparable section of this title as in effect immediately prior to the enactment of the Education Amendments of 1978 or under subpart 1 of this part, whichever was in effect for such prior fiscal year.

(20 U.S.C. 2792) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 495; amended Apr. 21, 1976, P.L. 94-273, sec. 3(8), 90 Stat. 376; amended Oct. 12, 1976, P.L. 94-482, secs. 501(b)(1)(a), 501(o), 90 Stat. 2236, 2238; amended Sept. 24, 1977, P.L. 95-112, sec. 2(a)(2), 91 Stat. 911; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2182, 2183.

PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

Subpart 1—Applicability; State Applications

APPLICABILITY

SEC. 161. The provisions of this part (other than section 162 and subpart 3) shall apply in any fiscal year in which the provisions of section 510(b)(2) of this Act are not met.

(20 U.S.C. 2801) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2183.

STATE APPLICATIONS

SEC. 162. (a) SUBMISSION OF STATE APPLICATIONS.—Any State desiring to participate under this title (except with respect to the program provided for in subpart 1 of part B relating to migratory children) shall have on file with the Commissioner an application submitted by its State educational agency.

(b) CONTENTS OF STATE APPLICATIONS.—Each application required by subsection (a) shall contain (1) satisfactory assurances that the State educational agency will comply with the requirements of this part, and (2) such information as the Commissioner may consider necessary for him to make the findings required by section 182.

(20 U.S.C. 2802) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2183.

Subpart 2—Duties Imposed on State Educational Agencies

APPLICATION APPROVAL

Sec. 164. (a) Requirements for Approval.—(1) A State educational agency shall approve an application of a local educational agency or a State agency under this title if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this title, the General Education Provisions Act, and the rules, regulations, procedures, guidelines, criteria, or other requirements adopted by such agency which pertain to programs and projects assisted under this title, and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this title which were misused, and is not out of compliance with a compliance agreement under section 169(c).

(2) A State educational agency may approve an application under paragraph (1), only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this title, and (D) evaluations conducted under section 124(g).

(b) Payments.—Except as provided in section 194, a State educational agency may make payments from funds received under this title only for programs and projects which it has approved under subsection (a).

(c) Opportunity for Hearing.—A State educational agency shall not finally disapprove in whole or in part any application for funds under part A or under subpart 2 or subpart 3 of part B without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing.

(20 U.S.C. 2811) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2183-2184.

STATE RULEMAKING

Sec. 165. Nothing in this title shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects assisted under this title if they do not conflict with the provisions of this title, with regulations promulgated by the Commissioner implementing this title, or with other applicable Federal law. The Commissioner shall encourage a State educational agency, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

(20 U.S.C. 2812) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2184.

TECHNICAL ASSISTANCE AND DISSEMINATION OF INFORMATION

SEC. 166. Each State educational agency shall carry on a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this title. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from educational research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this title, and (4) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs assisted under this title.

(20 U.S.C. 2813) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2184.

MONITORING

SEC. 167. Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner and with the State monitoring and enforcement plan submitted under section 171, for monitoring the effectiveness of programs and projects assisted under this title. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of onsite visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate follow-up by the State educational agency; (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that non-compliant practices are corrected.

(20 U.S.C. 2814) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2184.

COMPLAINT RESOLUTION

SEC. 168. Each State educational agency shall adopt written procedures for receiving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this title or applicable provisions of the General Education Provisions Act in connection with programs assisted under this title, and for conducting onsite investigations of such complaints which the State educational agency deems necessary. Such procedures shall include—

(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent onsite in-

vestigation, which shall not exceed sixty days unless exceptional circumstances exist;

(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

(4) dissemination, free of charge, of information concerning these procedures to interested parties, including all district and school advisory councils.

(20 U.S.C. 2815) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2185.

WITHHOLDING OF PAYMENTS

SEC. 169. (a) WITHHOLDING.—Whenever a State educational agency, after reasonable notice and opportunity for a hearing (consistent with the requirements of section 434(b) of the General Education Provisions Act) to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of subpart 3 of part A or subpart 2 or 3 of part B, the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under this title until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under this title, except as may be provided in a compliance agreement entered into under subsection (c). Pending the outcome of any proceeding under this subsection, the State educational agency may suspend, in whole or in part, payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(b) NOTICE TO PUBLIC OF STATE WITHHOLDING.—Upon submission to a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) is withholding payment, the State educational agency shall inform the district advisory council (if any) and shall take such additional action as may be necessary to bring the State action to the attention of the public.

(c) COMPLIANCE AGREEMENTS.—A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) while there is in effect a compliance agreement with the local educational agency or State agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the local educational agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term "compliance agreement" means an agreement which—

(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education

Provisions Act and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

(d) **Review by the Commissioner.**—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (a) to the Commissioner.

(20 U.S.C. 2816) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2185, 2186.

AUDITS AND AUDIT RESOLUTION

Sec. 170. (a) **Auditing.**—Each State shall make provision for audits of the expenditure of funds received under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency considering the nature, size, and complexity of the activity.

(b) **Audit Resolution.**—Each State educational agency shall have in effect written procedures meeting minimum standards established by the Commissioner, to assure timely and appropriate resolutions of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Whenever under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

(c) **Requirement for Repayment.**—A local educational agency or State agency shall repay from non-Federal sources or from Federal funds, no accountability for which is required to the Federal Government, the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied.

(d) **Review by the Commissioner.**—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (b) to the Commissioner.

(e) **Failure To Repay.**—If, following an affirmation by the Commissioner of a final determination of a State educational agency under subsection (b) or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources, or from Federal funds no accountability for which is required to the Federal Government, funds which have been misspent or misapplied under this title, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

(20 U.S.C. 2817) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2186, 2187.

Subpart 3—Responsibilities of State Educational Agencies to Commissioner

STATE MONITORING AND ENFORCEMENT PLANS

Sec. 171. (a) State Plan.—Each State educational agency participating in programs under this title shall submit, at such times (at least once every three years) and in such detail as the Commissioner shall prescribe, a State monitoring and enforcement plan. Such plan shall set forth—

(1) a program of regular visits by State educational agency personnel to projects assisted under this title;

(2) the matters to be reviewed during such visits;

(3) procedures for verifying information provided by local educational agencies and State agencies, including the use of other information available to the State to cross-check that information;

(4)procedures for regular audits of local educational agency and State agency expenditures under this title, and procedures for the recovery of any expenditure determined not to be allowable under this title;

(5) procedures for resolving each complaint received by the State relating to programs assisted under this title, including complaints referred to the State by the Commissioner and complaints by representatives of children enrolled in private schools that those children are not receiving the services to which they are entitled under this title; and

(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 130 relating to the equitable provision of services to children enrolled in private schools.

(b) Report.—Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this title.

(20 U.S.C. 2821) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2187.

REPORTING

Sec. 172. Each State educational agency shall make to the Commissioner (1) periodic reports (including the results of objective measurements required by section 124(g) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (2) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year).

(20 U.S.C. 2822) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2187, 2188.

RECORDKEEPING, FISCAL CONTROL, AND FUND ACCOUNTING

Sec. 173. Each State educational agency which receives funds under this title shall use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, funds made available under this title, and keep such records, and afford access thereto, as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

(20 U.S.C. 2823) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2188.

PROHIBITION OF CONSIDERATION OF FEDERAL AID IN DETERMINING STATE AID

Sec. 174. No State shall take into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(20 U.S.C. 2824) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2188.

Part D—Federal Administration of Programs and Projects

APPLICABILITY

Sec. 181. In addition to other requirements contained in this part, the requirements of the General Education Provisions Act which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this title.

(20 U.S.C. 2831) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2188.

APPROVAL OF APPLICATIONS

Sec. 182. (a) Requirement for Approval.—The Commissioner shall not approve an application under section 162 until he has made specific findings, in writing, that (1) the application and the State monitoring and enforcement plan required under section 171 comply with this title, and (2) that he is satisfied that the assurances in such application and the assurances contained in its general application under section 435 of the General Education Provisions Act (where applicable) will be carried out.

(b) Hearings.—The Commissioner shall, in accordance with the procedures set forth in section 453 of the General Education Provisions Act, not finally disapprove an application under section 142 or section 162 except after notice and opportunity for a hearing to the State educational agency.

(20 U.S.C. 2832) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2188.

PROGRAM EVALUATION

SEC. 183. (a) INDEPENDENT EVALUATIONS.—The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects.

(b) EVALUATION STANDARDS AND SCHEDULE.—The Commissioner shall (1) develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title, and (2) develop, in consultation with State educational agencies and representatives of local educational agencies, a schedule for conducting evaluations under section 124(g) designed to ensure that evaluations are conducted in representative samples of the local educational agencies in any State each year. Such standards will be developed only after widespread consultation and hearings with practicing State and local agency evaluators, and the Commissioner's standards will reflect the input of these groups.

(c) JOINTLY SPONSORED STUDIES.—The Commissioner shall consult with State and local educational agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

(d) EVALUATION MODELS.—The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 172, which shall include uniform procedures and criteria to be utilized by local educational agencies and State agencies as well as by the State educational agency in the evaluation of such programs. In developing evaluation design models the Commissioner shall consult with State and local evaluators experienced in conducting such evaluations.

(e) TECHNICAL ASSISTANCE.—The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies and State agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) SPECIFICATION OF OBJECTIVE CRITERIA.—The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) REPORT TO CONGRESS.—The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning the results of evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with other related findings and evaluations and his recommendations with respect to legislation.

(h) INFORMATION DISSEMINATION.—The Commissioner shall also develop a system for the gathering and dissemination of the results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State agencies and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

(i) MAXIMUM EXPENDITURES.—The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such programs. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States, local educational agencies, and State agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

(20 U.S.C. 2833) Enacted Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 499, 500; amended Apr. 21, 1976, P.L. 94-273, sec. 3(8), 90 Stat. 376; amended Oct. 12, 1976, P.L. 94-482, secs. 501(b)(1)(e), 501(p), 90 Stat. 2236, 2238; amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2189, 2190; amended Oct. 19, 1980, P.L. 96-470, sec. 204, 94 Stat. 2244.

COMPLAINT RESOLUTION

SEC. 184. The Commissioner shall develop and implement written procedures for receiving and resolving appeals from final resolutions of State educational agencies with respect to complaints concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title, for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting independent onsite investigations of complaints if the Commissioner deems necessary. Such procedures shall include—

(1) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(2) an opportunity for the complainant, the complainant's representative, the local educational agency and the State educational agency to present evidence;

(3) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school-parent advisory councils shall be notified, in writing, within ten days after the resolution of the

appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

(4) dissemination of information concerning the procedures.

(20 U.S.C. 2834) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2190.

AUDITS AND AUDIT RESOLUTION

SEC. 185. (a) AUDITING.—The Inspector General of the Department of Health, Education, and Welfare shall make provision for audits of grants made under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

(b) AUDIT RESOLUTION AND REPAYMENT.—The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

(20 U.S.C. 2835) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2190, 2191.

WITHHOLDING OF PAYMENTS

SEC. 186. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 142 or 162, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this title, or (2) payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies or State agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of the payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. In the case of a substantial and continuing violation, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(b) Notice to Public of Commissioner Withholding.—Upon submission to a State of a notice under subsection (a) that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

(c) Compliance Agreement.—(1) The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) during any period there is in effect a compliance agreement with the State educational agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement.

(2) For the purpose of this subsection, the term "compliance agreement", means an agreement which—

(A) sets forth the terms and conditions to which the State or local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder;

(B) addresses all the matters that formed the basis for the initiation of the withholding action by the Commissioner; and

(C) may consist of a series of agreements that in the aggregate dispose of all such matters.

(3) In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this title is genuinely not feasible until a further date, the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect before entering into such a compliance agreement with that State educational agency. A compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552 of title 5, United States Code. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

(20 U.S.C. 2836) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 33; amended Nov. 3, 1966, P.L. 89-750, sec. 103(c)(3), 80 Stat. 1193; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 108(a)(4), (b), 110, 81 Stat. 786, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, sec. 113(b)(4), (9), 84 Stat. 126, 129; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2191, 2192.

POLICY MANUAL

SEC. 187. (a) SCOPE AND PURPOSE.—The Commissioner shall, not later than six months after the publication of final regulations with respect to the amendments to this title made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and district-wide advisory councils, and shall make available to other interested individuals, organizations, and agencies, a policy manual for this title to—

(1) assist such agencies in (A) preparing applications for program funds under this title, (B) meeting the applicable program requirements under this title, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

(3) assist advisory councils established under section 125(a) in advising the local educational agencies in the planning for, and implementation and evaluation of, programs and projects under this title; and

(4) insure that officers and employees of the Department of Health, Education, and Welfare, including, but not limited to officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—

(1) a statement of the requirements applicable to the programs carried on under this title including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

(3) an explanation of the interrelationships between the applicable requirements;

(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this title, (F) resolving complaints, (G) responding to requests for adviso-

ry opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public audit determinations of the Commissioner or of any officer or panel authorized by the Commissioner to make such determinations;

(5) summaries of (A) advisory opinions referred to in paragraph (4)(G) of this section and (B) final audit determinations referred to in paragraph (4)(I), including examples of actual applications of the legal requirements of applicable statutes and regulations;

(6) model forms and instructions developed by the Commissioner for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

(7) summaries of appropriate court decisions concerning programs under this title;

(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this title; and

(9) model forms, policies, and procedures developed by State educational agencies.

(20 U.S.C. 2837) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2192, 2193.

ENFORCEMENT REPORT

SEC. 188. The Commissioner shall, in conjunction with the report required by section 183(g), submit to the Congress a report concerning the enforcement of this title. The report submitted in 1980, 1982, and 1984 shall contain—

(1) an analysis, for each State which has an application approved for that year under section 182, of the extent to which the assurances, policies, and procedures of that State submitted as part of that application satisfy the requirements of this title,

(2) a description for each such State of the manner in which monitoring reports of the Commissioner were taken into consideration in the approval of such applications,

(3) a description, with respect to appropriate States, of the manner in which unresolved audit and program monitoring findings were taken into consideration in the approval of such applications,

(4) a description for each such State of the manner in which the annual evaluation report of that State was taken into consideration in the approval of such applications,

(5) a summary of the findings of the Commissioner's on-site monitoring visits, of the actions taken by State educational agencies to correct problems identified in each report based on such visits, and of the number, type, and location of problems which have been so identified but which have not been corrected as of the date of the submission of the annual enforcement report under this section,

(6) with respect to audits conducted under this title, (A) the number and type of audits conducted in the year preceding the

date of submission of the report, (B) the identity of each State or local educational agency audited during that year, (C) the resolution status of each outstanding audit, including the dates on which each step of the resolution process with respect to such outstanding audit was completed, the schedule for completion of such process, the amount of the financial exceptions noted in final audit reports and in letters of final determination, and an explanation of any differences in such amounts as noted in draft audit reports, final audit reports, and letters of final determination, (D) the number and identity of any States which did not appeal to the audit hearing board for this title with respect to audits conducted during that year and the status of recoupment activities for each such State, (E) the number and identity of States which appealed to such board during that year and the status of each active appeal, (F) the number and identity of States which have completed such appeals during that year and the status of recoupment activities with respect thereto, (G) the number and type of any cases referred to the Attorney General during that year for collection of misspent funds, (H) the amount of any funds recovered during that year as a result of such audit resolution process, (I) an analysis of the type of violations identified in final audit reports, letters of final determination, and final decisions of the audit hearing board for this title and of the Commissioner on appeal from the decisions of such board, (J) a summary of audit follow-up actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural noncompliance have been corrected, (K) a description of audits planned for the year succeeding the date of the submission of the report, and (L) recommendations for improvement of the audit resolution process, and

(7) with respect to complaints made to the Commissioner concerning programs under this title during the year preceding the date of submission of the report under this section, the number and type of complaints, the identity of the State and local educational agencies, the action taken by the Commissioner to resolve the complaints, and the number and type of complaints which remain unresolved as of the date of such submission.

(20 U.S.C. 2838) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2193, 2194.

PART E—PAYMENTS

PAYMENT METHODS

SEC. 191. The Commissioner shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(20 U.S.C. 2841) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 32; amended Nov. 1, 1965, P.L. 89-313, sec. 7(a), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750,

secs. 103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, secs. 113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; amended Oct. 12, 1976, P.L. 94-482, sec. 323(a)(1), 90 Stat. 2217; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2195.

AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 192. From the funds paid to it pursuant to section 191 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this title and which has submitted an application approved pursuant to section 121 the amount for which such application has been approved, except that the amount shall not exceed the amount determined for that agency under this title.

(20 U.S.C. 2842) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 32; amended Nov. 1, 1965, P.L. 89-313, sec. 7(a), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, secs. 103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, secs. 113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; amended Oct. 12, 1976, P.L. 94-482, sec. 323(a)(1), 90 Stat. 2217; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2195.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

Sec. 193. (a) Adjustment Allocation.—If the sums appropriated for any fiscal year for making the payments provided in this title other than amounts appropriated for subpart 2 of part A are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.

(b) Additional Funds Allocation.—In case additional funds become available for making payments under this title for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State and (2) State educational agencies referred to in subpart 1 of part B must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 111(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

(20 U.S.C. 2843) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 33; amended Nov. 3, 1966, P.L. 89-750, sec. 114, 80 Stat. 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 107(b), 110, 81 Stat. 785, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, sec. 113(b)(3), (4)(c) and (d), 84 Stat. 126, 129; amended Aug. 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 498, 499; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2195, 2196.

PAYMENTS FOR STATE ADMINISTRATION

SEC. 194. (a) Except as provided in subsection (b), the Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title, except that the total of such payments in any fiscal year shall not exceed—

(1) 1 per centum of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under this title; or

(2) $225,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands,

whichever is the greater, except that any amount paid by reason of clause (1) or (2) in excess of the limitations on such payments in effect prior to the effective date of the Education Amendments of 1978 shall be used exclusively for monitoring, audit resolution, enforcement, or similar compliance activities and shall supplement and not supplant funds otherwise available from non-Federal sources for such purposes.

(b) The provisions of this section shall apply in any fiscal year in which the provisions of section 510(b)(2) are not met.

(20 U.S.C. 2844) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 32; amended Nov. 1, 1965, P.L. 89-313, sec. 7(a), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750,

secs. 103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, secs. 113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; amended Oct. 12, 1976, P.L. 94-482, sec. 323(a)(1), 90 Stat. 2217; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2196; amended August 13, 1981, P.L. 97-35, sec. 554(d), 95 Stat. 556.

PART F—GENERAL PROVISIONS

JUDICIAL REVIEW

SEC. 195. (a) FILING APPEALS.—If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under subpart 1 or part B or section 162 or with his final action under section 185 or 186, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) BASIS OF REVIEW.—The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 2851) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 33; amended Nov. 3, 1966, P.L. 89-750, sec. 103(c)(4), 80 Stat. 1193; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 108(a)(4), (b), 110, 81 Stat. 786, 787; redesignated and amended Apr. 13, 1970, P.L. 91-230, sec. 113(b)(4), 10, 84 Stat. 125, 129; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2196, 2197.

NATIONAL ADVISORY COUNCIL

SEC. 196. (a) COUNCIL ESTABLISHED.—There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

(b) FUNCTIONS.—The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operations. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(c) REPORTS.—The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Educational Provisions Act, the National Council shall continue to exist until October 1, 1984.

(20 U.S.C. 2852) Enacted Apr. 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 34; amended Nov. 3, 1966, P.L. 89-750, sec. 115, 80 Stat. 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, secs. 108(a),(4), 110, 114, 81 Stat. 786-788; redesignated and amended Apr. 13, 1970, P.L. 91-230, secs. 112, 113(b)(4), 84 Stat. 125, 126; amended Aug. 21, 1974, P.L. 93-380, sec. 845(a), 88 Stat. 612; amended Apr. 21, 1976, P.L. 94-273, sec. 3(8), 90 Stat. 376; amended Sept. 24, 1977, P.L. 95-112, sec. 2(a)(3), 91 Stat. 911; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2197.

LIMITATION ON GRANT TO PUERTO RICO

SEC. 197. Notwithstanding the provisions of part A or of subpart 1, 2, or 3 of part B of this title, the amount paid to the Commonwealth of Puerto Rico under this title for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico under this title in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which they are eligible under section 111.

(20 U.S.C. 2853) Enacted Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2198.

DEFINITIONS

SEC. 198. (a) Except as otherwise provided, for purposes of this title:

(1) The term "average daily attendance" means attendance determined in accordance with State law, except that notwithstanding any other provision of this title, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such

child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(2) The term "average per pupil expenditure" means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(3) The term "Commissioner" means the United States Commissioner of Education.

(4) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(5) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(6) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this title or parts B and C of title IV of this Act.

(7) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(8) The term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(9) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

(10) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) The term "parent" includes a legal guardian or other person standing in loco parentis.

(12) The term "project area" means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this title.

(13) The term "school attendance area" means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

(14) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(15) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(16) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(17) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(20 U.S.C. 2854) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title III, sec. 303, formerly sec. 9, 64 Stat. 1108; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong. sec. 10, 67 Stat. 536; amended Aug. 1, 1956, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended Aug. 3, 1956, ch. 915, P.L. 949, 84th Cong., sec. 211, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, sec. 205, 72 Stat. 560; amended June 25, 1959, P.L. 86-70, sec. 18(d)(4), 73 Stat. 145; amended July 12, 1960, P.L. 86-624, sec. 14(d)(4), 74 Stat. 414; amended Oct. 16, 1964, P.L. 88-665, sec. 1102(b), 78 Stat. 1109; redesignated and amended April 11, 1965, P.L. 89-10, secs. 3(c)(1), 4(a)-(c), (d)(1), (e), 79 Stat. 35; amended Nov. 1, 1965, P.L. 89-313, sec. 6(c), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, sec. 117(a)(1), (b) 80, Stat. 1198, 1199. sec. 206, 80 Stat. 1213; amended Jan. 2, 1968, P.L. 90-247, sec. 201, 81 Stat. 806; amended Apr. 13, 1970, P.L. 91-230, sec. 203(b), 84 Stat. 156. Amendments effective after June 30, 1970; redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334; amended August 21, 1974, P.L. 93-380, sec. 304(d)(1), 88 Stat. 523; P.L. 93-380, sec. 101(a)(9)(K), 88 Stat. 501; amended

April 21, 1976, P.L. 94-273, sec. 49(d), 90 Stat. 382; amended October 12, 1976, P.L. 94-482, sec. 501(n), 90 Stat. 2237, 2238; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 101(a), 92 Stat. 2198-2200.

EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Subtitle D—Elementary and Secondary Education Block Grant

SEC. 551. This subtitle may be cited as the "Education Consolidation and Improvement Act of 1981".

(20 U.S.C. 3801 note) Enacted August 13, 1981, P.L. 97-35, sec. 547, 95 Stat. 463.

CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

DECLARATION OF POLICY

SEC. 552. The Congress declares it to be the policy of the United States to continue to provide financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, on the basis of entitlements calculated under title I of the Elementary and Secondary Education Act of 1965, but to do so in a manner which will eliminate burdensome, unnecessary, and unproductive paperwork and free the schools of unnecessary Federal supervision, direction, and control. Further, the Congress recognizes the special educational needs of children of low-income families, and that concentrations of such children in local educational agencies adversely affect their ability to provide educational programs which will meet the needs of such children. The Congress also finds that Federal assistance for this purpose will be more effective if education officials, principals, teachers, and supporting personnel are freed from overly prescriptive regulations and administrative burdens which are not necessary for fiscal accountability and make no contribution to the instructional program.

(20 U.S.C. 3801) Enacted August 13, 1981, P.L. 97-35, sec. 552, 95 Stat. 464.

DURATION OF ASSISTANCE

SEC. 553. During the period beginning October 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for grants made on the basis of entitlements created under title I of the Elementary and Secondary Education Act of 1965 and calculated in accordance with provisions of that title in effect on September 30, 1982.

(20 U.S.C. 3802) Enacted August 13, 1981, P.L. 97-35, sec. 553, 95 Stat. 464.

APPLICABILITY OF TITLE I PROVISIONS OF LAW

SEC. 554. (a) PROGRAM ELIGIBILITY.—Except as otherwise provided in this subtitle, the Secretary shall make payments based upon the amount of, and eligibility for, grants as determined under the following provisions of title I of the Elementary and Secondary Education Act in effect on September 30, 1982:

(1) Part A—"Programs Operated by Local Education Agencies":

(A) Subpart 1—"Basic Grants"; and

(B) Subpart 2—"Special Grants".

(2) Part B—"Programs Operated by State Agencies":

(A) Subpart 1—"Programs for Migratory Children";

(B) Subpart 2—"Programs for Handicapped Children";

(C) Subpart 3—"Programs for Neglected and Delinquent Children"; and

(D) Subpart 4—"General Provisions for State Operated Programs".

(b) ADMINISTRATIVE PROVISIONS.—The Secretary, in making the payments and determinations specified in subsection (a), shall continue to use the following provisions of title I of the Elementary and Secondary Education Act as in effect on Septemeber 30, 1982:

(1) Part E—"Payments":

(A) Section 191—"Payment Methods";

(B) Section 192—"Amount of Payments to Local Educational Agencies";

(C) Section 193—"Adjustments Where Necessitated by Appropriations"; and

(D) Section 194—"Payments for State Administration", subject to subsection (d) of this section.

(2) Part F—"General Provisions":

(A) Section 197—"Limitation on Grants to Puerto Rico"; and

(B) Section 198—"Definitions" and conforming amendments to other Acts, except that only those definitions applicable to this subtitle shall be used.

(c) APPLICABILITY RULE.—The provisions of title I of the Elementary and Secondary Education Act of 1965 which are not specifically made applicable by this chapter shall not be applicable to programs authorized under this chapter.

(d) AMENDMENT.—Section 194(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "1.5 per centum" and inserting in lieu thereof "1 per centum".

(20 U.S.C. 3803) Enacted August 13, 1981, P.L. 97-35, sec. 554, 95 Stat. 464.

AUTHORIZED PROGRAMS

SEC. 555. (a) GENERAL.—Each State and local educational agency shall use the payments under this chapter for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of educationally deprived children.

(b) PROGRAM DESIGN.—State agency programs shall be designed to serve migratory children of migratory agricultural workers or of migratory fishermen, handicapped children, and neglected and delinquent children (as described in subparts 1, 2, and 3, respectively, of part B of title I of the Elementary and Secondary Education Act of 1965) in accordance with section 554(a)(2) and the other applicable requirements of this chapter. The Secretary shall continue to use the definitions of "agricultural activity", "currently migratory child", and "fishing activity" which were in effect on June 30, 1982, in regulations prescribed under subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965. No additional definition of "migratory agricultural worker" or "migratory fisherman" may be applied after the date of enactment of this subsection to such subpart 1, except that such definition shall be modified to include children of migratory fishermen, if such children reside in a school district of more than 18,000 square miles and migrate a distance of 20 miles or more to temporary residences to engage in fishing activity.

(c) Program Description.—A local education agency may use funds received under this chapter only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 556(b)(2), and which are included in an application for assistance approved by the State educational agency. Such programs and projects may include the acquisition of equipment and instructional materials, employment of special instructional and counseling and guidance personnel, employment and training of teacher aides, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, the construction, where necessary, of school facilities, other expenditures authorized under title I of the Elementary and Secondary Education Act as in effect September 30, 1982, and planning for such programs and projects.

(d) Records and Information.—Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

(e) Evaluation.—Each State educational agency shall—

(1) conduct an evaluation of the programs assisted under this chapter at least every two years and shall make public the results of that evaluation; and

(2) collect data on the race, age, and gender of children served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter.

(20 U.S.C. 3804) Enacted August 13, 1981, P.L. 97-35, sec. 555, 95 Stat. 465; amended Dec. 8, 1983, P.L. 98-211, sec. 1, 97 Stat. 1412; amended June 12, 1984, P.L. 98-312, sec. 5, 98 Stat. 234.

APPROVAL OF APPLICATIONS

Sec. 556. (a) Application by Local Educational Agency.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the programs and projects to be conducted with such assistance for a period of not more than three years, and such application has been approved by the State educational agency.

(b) Application Assurances.—The application described in subsection (a) shall be approved if it provides assurances satisfactory to the State educational agency that the local educational agency will keep such records and provide such information to the State educational agency as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the State agency under this chapter), and that the programs and projects described—

(1)(A) are conducted in attendance areas of such agency having the highest concentrations of low-income children; or

(B) are located in all attendance areas of an agency which has a uniformly high concentration of such children;

(2) are based upon an annual assessment of educational needs which identifies educationally deprived children in all eligible attendance areas, requires, among the educationally deprived children selected, the inclusion of those children who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;

(3) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served and are designed and implemented in consultation with parents and teachers of such children;

(4) will be evaluated in terms of their effectiveness in achieving the goals set for them, and that such evaluations shall include objective measurements of educational achievement in basic skills and a determination of whether improved performance is sustained over a period of more than one year, and that the results of such evaluation will be considered by such agency in the improvement of the programs and projects assisted under this chapter; and; and[1]

(5) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 557.

(c) EXEMPTION FROM TARGETING.—The requirements of subsection (b)(1) shall not apply in the case of a local educational agency with a total enrollment of less than one thousand children, but this subsection does not relieve such an agency from the responsibility to serve children under the assurances set forth in subsection (b)(2).

(d) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (b)(1) of this section, a local educational agency shall have discretion to make educational decisions which are consistent with achieving the purposes of this chapter as set forth in this subsection, as follows:

(1) A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area.

(2) A local educational agency may, with the approval of the State educational agency, designate as eligible (and serve) school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this provision shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of compensatory education services to educationally de-

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[1] Apparent error, see sec. 2(d) of P.L. 98-211, 97 Stat. 1413.

prived children from low-income families in project areas served by the local educational agency.

(3) Funds received under this chapter may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

(4) If an eligible school attendance area or eligible school was so designated in accordance with subsection (b)(1)(A) in either of two preceding fiscal years, it may continue to be so designated for a single additional fiscal year even though it does not qualify in accordance with subsection (b)(1)(A).

(5) With approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, but (A) the number of children attending private elementary and secondary schools who receive services under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

(6) A child who, in any previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this title for the current year.

(7) Educationally deprived children who begin participation in a program or project assisted under this chapter who, in the same school year, are transferred to a school attendance area or a school not receiving funds under this chapter, may continue to participate in a program or project funded under this chapter for the remainder of such year.

(8) The local educational agency is not required to use funds under this chapter to serve educationally deprived children in greatest need of assistance if such children are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this chapter.

(9) In the case of any school serving an attendance area that is eligible to receive services under this chapter and in which not less than 75 per centum of the children are from low-income families, funds received under this chapter may be used for a project designed to upgrade the entire educational program in that school in the same manner and only to the same extent as permitted under section 133(b) of the Elementary and Secondary Education Act of 1965 (but without regard to paragraph (4) of such section).

(10) Public school personnel paid entirely by funds made available under this chapter may be assigned limited, rotating, supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as is the case with similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.

(e) Parental Involvement.—For the purposes of complying with the assurances given pursuant to subsection (b)(3) with respect to consultation with parents of participating children, (1) a local educational agency shall convene annually a public meeting, to which all parents of eligible students shall be invited, to explain to parents the programs and activities provided with funds made available under this chapter, and (2) if parents desire further activities, the local educational agency may, upon request, provide reasonable support for such activities.

(20 U.S.C. 3805) Enacted August 13, 1981, P.L. 97-35, sec. 556, 95 Stat. 465; amended December 8, 1983, P.L. 98-211, secs. 2, 3, 4, 97 Stat. 1412-1414.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

Sec. 557. (a) General Requirements.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 555(c), 556(b) (1), (2), (3), and (4), and 558(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) Bypass Provision.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Secretary arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

(20 U.S.C. 3806) Enacted August 13, 1981, P.L. 97-35, sec. 557, 95 Stat. 466; amended December 8, 1983, P.L. 98-211, sec. 5, 97 Stat. 1415.

GENERAL PROVISIONS

SEC. 558. (a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 per centum of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The State educational agency may waive, for one fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter, and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter outside the regular classroom or school program.

(c) COMPARABILITY OF SERVICES.—(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

(2) A local educational agency shall be deemed to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established—

(A) a districtwide salary schedule;

(B) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

(C) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children, including compensatory education for educationally deprived children (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965). For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

(1) bilingual education for children of limited English proficiency,

(2) special education for handicapped children or children with specific learning disabilities, and

(3) certain State phase-in programs as described in section 131(d) of the Elementary and Secondary Education Act of 1965.

(e) Allocation of Funds in Certain States.—Notwithstanding section 111(a)(3)(C) of the Elementary and Secondary Education Act of 1965, in any State in which a large number of local educational agencies overlap county boundaries, the State educational agency is authorized to make allocations of basic grants and special incentive grants directly to local educational agencies without regard to counties, if such allocations were made during fiscal year 1982, except that (1) precisely the same factors are used to determine the amount of such grants to counties, and (2) a local educational agency dissatisfied with such determination is afforded an opportunity for a hearing on the matter by the State educational agency.

(20 U.S.C. 3807) Enacted August 13, 1981, P.L. 97-35, sec. 558, 95 Stat. 468; amended December 8, 1983, P.L. 98-211, secs. 7, 8, 97 Stat. 1415.

NATIONAL ASSESSMENT OF COMPENSATORY EDUCATION ASSISTED UNDER THIS CHAPTER

Sec. 559. (a) The Secretary shall conduct a national assessment of compensatory education assisted under this chapter, through independent studies and analysis by the National Institute of Education. The assessment shall include descriptions and assessments of the impact of (1) services delivered, (2) recipients of services, (3) background and training of teachers and staff, (4) allocation of funds (to school sites), (5) coordination with other programs, (6) effectiveness of programs on student's basic and higher order academic skills, school attendance, and future education, and (7) a national profile of the way in which local educational agencies implement activities described under section 556(b). The National Institute of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required by this section. The National Institute of Education shall report to Congress the preliminary results of the assessment required by this section in January and July of 1986, and a final report shall be prepared and submitted to the Congress not later than January 1, 1987.

(b) Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the Department of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

(20 U.S.C. 3808) Enacted December 8, 1983, P.L. 98-211, sec. 22, 97 Stat. 1418.

CHAPTER 2—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

STATEMENT OF PURPOSE

SEC. 561. (a) It is the purpose of this chapter to consolidate the program authorizations contained in—
(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;
(2) the Alcohol and Drug Abuse Education Act;
(3) part A and section 532 of title V of the Higher Education Act of 1965;
(4) the Follow Through Act (on a phased basis);
(5) section 3(a)(1) of the National Science Foundation Act of 1950 relating to precollege science teacher training; and
(6) the Career Education Incentive Act;
into a single authorization of grants to States for the same purposes set forth in the provisions of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by single authorization of grants to States for the same purposes set forth in the provisions of law specified in this sentence, but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by such agencies. It is the further purpose and intent of Congress to financially assist State and local educational agencies to improve elementary and secondary education (including preschool education) for children attending both public and private schools, and to do so in a manner designed to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children.

(b) The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under the chapter shall be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of the students in their own districts.

(20 U.S.C. 3811) Enacted August 13, 1981, P.L. 97-35, sec. 561, 95 Stat. 469; amended December 8, 1983, P.L. 98-211, sec. 9(a), 97 Stat. 1415.

AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE

SEC. 562. (a) There are authorized to be appropriated such sums as may be necessary for fiscal year 1982 and each of the five succeeding fiscal years to carry out the provisions of this chapter.

(b) During the period beginning July 1, 1982, and ending September 30, 1987, the Secretary shall, in accordance with the provisions of this subtitle, make payments to State educational agencies for the purposes of this chapter.

(c) Funds available under previously authorized programs shall be available for the purpose of such payments in accordance with section 514(b)(2) of the Omnibus Education Reconciliation Act of 1981. Until September 30, 1983, such funds may also be used to assist in phasing out programs described in section 561(a) and in promoting an orderly transition to operations under this chapter.

(20 U.S.C. 3812) Enacted August 13, 1981, P.L. 97-35, sec. 562, 95 Stat. 469; amended December 8, 1983, P.L. 98-211, sec. 10, 97 Stat. 1416.

ALLOTMENTS TO STATES

SEC. 563. (a) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Secretary shall reserve an additional amount, not to exceed 6 per centum of the sums appropriated, to carry out the purposes of section 583. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 per centum of such remainder.

(b) For the purposes of this section:

(1) The term "school-age population" means the population aged five through seventeen.

(2) The term "States" includes the fifty States, the District of Columbia, and Puerto Rico.

(20 U.S.C. 3813) Enacted August 13, 1981, P.L. 97-35, sec. 563, 95 Stat. 470; amended December 8, 1983, P.L. 98-211, sec. 11, 97 Stat. 1416.

STATE APPLICATIONS

SEC. 564. (a) Any State which desires to receive grants under this chapter shall file an application with the Secretary which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including persons representative of—

(A) public and private elementary and secondary schoolchildren;

(B) classroom teachers;

(C) parents of elementary and secondary schoolchildren;

(D) local boards of education;

(E) local and regional school administrators (including principals and superintendents);

(F) institutions of higher education; and

(G) the State legislature;

to advise the State educational agency on the allocation among authorized functions of funds (not to exceed 20 per centum of the amount of the State's allotment) reserved for State use under section 565(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

(3) sets forth the planned allocation of funds reserved for State use under section 565(a) among subchapters A, B, and C of this chapter and among the authorized programs and projects which are to be implemented, and the allocation of such funds required to implement section 586, including administrative costs of carrying out the responsibilities of the State educational agency under this chapter;

(4) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

(5) beginning with fiscal year 1984, provides for an annual evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

(6) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

(7) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has exercised and will exercise no influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to its application under section 566; and

(8) contains assurances that there is compliance with the specific requirements of this chapter.

(b) An application filed by the State under subsection (a) shall be for a period not to exceed three fiscal years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Notwithstanding section 1745 of this Act, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every five years.

(20 U.S.C. 3814) Enacted August 13, 1981, P.L. 97-35, sec. 564, 95 Stat. 470; amended December 8, 1983, P.L. 98-211, secs. 9(b), 12, 97 Stat. 1415, 1416.

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

Sec. 565. (a) From the sum made available each year under section 563, the State educational agency shall distribute not less than 80 per centum to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

(1) children from low-income families,

(2) children living in economically depressed urban and rural areas, and

(3) children living in sparsely populated areas.

(b) The Secretary shall approve criteria suggested by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in subsection (a).

(c) From the funds paid to it pursuant to sections 563 and 564 during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 566 the amount of its allocation as determined under subsection (a).

(20 U.S.C. 3815) Enacted August 13, 1981, P.L. 97-35, sec 565, 95 Stat. 471; amended December 8, 1983, P.L. 98-211, sec. 21, 97 Stat. 1418.

LOCAL APPLICATIONS

SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year for which its application to the State educational agency has been certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—

(1) sets forth the planned allocation of funds among subchapters A, B, and C of this chapter and for the programs authorized by such subchapters which it intends to support, including the allocation of such funds required to implement section 586;

(2) provides assurances of compliance with provisions of this chapter relating to such programs, including the participation of children enrolled in private, nonprofit schools in accordance with section 586;

(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

(4) in the allocation of funds for programs authorized by this chapter, and in the design, planning, and implementation of such programs, provides for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups as may be deemed appropriate by the local educational agency.

(b) An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

(c) Each local educational agency shall have complete discretion, subject only to the provisions of this chapter, in determining how funds the agency receives under this section shall be divided among the purposes of this chapter in accordance with the application submitted under this section. In exercising such discretion, it shall be the responsibility of each local educational agency to ensure that each expenditure of funds under this chapter is for the purpose of meeting the educational needs within the schools of that local educational agency.

(20 U.S.C. 3816) Enacted August 13, 1981, P.L. 97-35, sec. 566, 95 Stat. 471; amended December 8, 1983, P.L. 98-211, secs. 9(c), 13, 97 Stat. 1416.

Subchapter A—Basic Skills Development

USE OF FUNDS

SEC. 571. Funds allocated for use under this subchapter shall be used by State and local educational agencies to develop and implement a comprehensive and coordinated program designed to improve elementary and secondary school instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II of the Elementary and Secondary Education Act of 1965, relating to basic skills improvement, including the special mathematics program as formerly authorized by section 232 of such title.

(20 U.S.C. 3821) Enacted August 13, 1981, P.L. 97-35, sec. 571, 95 Stat. 472.

STATE LEADERSHIP AND SUPPORT SERVICES

SEC. 572. (a) In order to achieve the purposes of this subchapter, State educational agencies may use funds reserved for State programs to make grants to and enter into contracts with local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions—

(1) to carry out planning, research and development, demonstration projects, training of leadership personnel, short term and regular session teacher training institutes; and

(2) for the development of instructional materials, the dissemination of information, and technical assistance to local educational agencies.

Each State educational agency may also use such funds for technical assistance and training for State boards of education.

(b) State educational agencies may support activities designed to enlist the assistance of parents and volunteers working with schools to improve the performance of children in the basic skills. Such activities may include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills; and

(2) voluntary training activities for parents to encourage and assist them to help their children in developing basic skills;

except that such activities conducted in local areas shall be conducted with the approval of and in conjunction with programs of local educational agencies.

(20 U.S.C. 3822) Enacted August 13, 1981, P.L. 97-35, sec. 572, 95 Stat. 472.

SCHOOL LEVEL PROGRAMS

SEC. 573. (a) In planning for the utilization of funds it allocates for this subchapter (from its allotment under section 565) a local educational agency shall provide for the participation of children enrolled in private elementary and secondary schools (and of teachers in such schools) in accordance with section 586. Such plans shall be developed in conjunction with and involve continuing consultation with teachers and principals in such district. Such planning shall include a systematic strategy for improving basic skills instruction for all children which provides for planning and implementation at the school building level, involving teachers, administrators, and (to the extent practicable) parents, and utilizing all available resources in a comprehensive program. The programs shall include—

(1) diagnostic assessment to identify the needs of all children in the school;

(2) the establishment of learning goals and objectives for children and for the school;

(3) to the extent practicable, pre-service and in-service training and development programs for teachers, administrators, teacher aides and other support personnel, designed to improve instruction in the basic skills;

(4) activities designed to enlist the support and participation of parents to aid in the instruction of their children; and

(5) procedures for testing students and for evaluation of the effectiveness of programs for maintaining a continuity of effort for individual children.

(b) The programs described in subsection (a) may include such areawide or districtwide activities as learning centers accessible to students and parents, demonstration and training programs for parents, and other activities designed to promote more effective instruction in the basic skills.

(20 U.S.C. 3823) Enacted August 13, 1981, P.L. 97-35, sec. 573, 95 Stat. 473; amended December 8, 1983, P.L. 98-211, sec. 14, 97 Stat. 1416.

Subchapter B—Educational Improvement and Support Services

STATEMENT OF PURPOSE

SEC. 576. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly, and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title IV, relating to educational improvement, resources, and support, title V, relating to State leadership, title VI, relating to emergency school aid, of the Elementary and Secondary Education Act of 1965, section 3(a)(1) of the National Science Foundation Act of 1950, relating to precollege science teacher training, and part A and section 532 of title V of the Higher Education Act of 1965, relating to the Teacher Corps and teacher centers, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

(20 U.S.C. 3831) Enacted August 13, 1981, P.L. 97-35, sec. 576, 95 Stat. 473.

AUTHORIZED ACTIVITIES

SEC. 577. Programs and projects authorized under this subchapter include—

(1) the acquisition and utilization—

(A) of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools which shall be used for instructional purposes only, and

(B) of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only,

which take into account the needs of children in both public and private schools based upon periodic consultation with teachers, librarians, media specialists, and private school officials;

(2) the development of programs designed to improve local educational practices in elementary and secondary schools, and particularly activities designed to address educational problems such as the education of children with special needs (educationally deprived children, gifted and talented children, including children in private schools);

(3) programs designed to assist local educational agencies, upon their request, to more effectively address educational problems caused by the isolation or concentration of minority group children in certain schools if such assistance is not conditioned upon any requirement that a local educational agency which assigns students to schools on the basis of geographic attendance areas adopt any other method of student assignment, and that such assistance is not made available for the transportation of students or teachers or for the acquisition of equipment for such transportation;

(4) comprehensive guidance, counseling, and testing programs in elementary and secondary schools and State and local support services necessary for the effective implementation and evaluation of such programs (including those designed to help prepare students for employment);

(5) programs and projects to improve the planning, management and implementation of educational programs, including fiscal management, by both State and local educational agencies, and the cooperation of such agencies with other public agencies;

(6) programs and projects to assist in teacher training and inservice staff development, particularly to better prepare both new and in-service personnel to deal with contemporary teaching and learning requirements and to provide assistance in the teaching and learning of educationally deprived students; and

(7) programs and projects to assist local educational agencies to meet the needs of children in schools undergoing desegrega-

tion and to assist such agencies to develop and implement plans for desegregation in the schools of such agencies.

(20 U.S.C. 3832) Enacted August 13, 1981, P.L. 97-35, sec. 577, 95 Stat. 474.

Subchapter C—Special Projects

STATEMENT OF PURPOSE

Sec. 581. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds (directly and through grants to or contracts with educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions) to carry out selected activities from among the full range of programs and projects formerly authorized under title III, relating to special projects, title VIII, relating to community schools, and title IX (except part C), relating to gifted and talented children, educational proficiency standards, safe schools program, and ethnic heritage program, of the Elementary and Secondary Education Act of 1965, the Career Education Incentive Act, and part B of title V of the Economic Opportunity Act of 1964, relating to Follow Through programs, in accordance with the planned allocation of funds set forth in the applications under sections 564 and 566, in conformity with the other requirements of this chapter.

(20 U.S.C. 3841) Enacted August 13, 1981, P.L. 97-35, sec. 581, 95 Stat. 475.

AUTHORIZED ACTIVITIES

Sec. 582. Programs and projects authorized under this subchapter include—

(1) special projects (as may be determined to be desirable by the State or local educational agencies) in such areas as—

(A) preparation of students to use metric weights and measurements when such use is needed;

(B) emphasis on the arts as an integral part of the curriculum;

(C)(i) in-school partnership programs in which the parents of school-age children participate to enhance the education and personal development of the children, previously authorized by part B of the Headstart-Follow Through Act;

(ii) preschool partnership programs in which the schools work with parents of preschool children in cooperation with programs funded under the Headstart-Follow Through Act;

(D) consumer education;

(E) preparation for employment, the relationship between basic academic skill development and work experience, and coordination with youth employment programs carried out under the Comprehensive Employment and Training Act;

(F) career education previously authorized by the Career Education Incentive Act;

(G) environmental education, health education, education about legal institutions and the American system of law and its underlying principles, and studies on population and the effects of population changes;

(H) academic and vocational education of juvenile delinquents, youth offenders, and adult criminal offenders;

(I) programs to introduce disadvantaged secondary school students to the possibilities of careers in the biomedical and medical sciences, and to encourage, motivate, and assist them in the pursuit of such careers; and

(J) programs to teach the principles of citizenship;

(2) the use of public education facilities as community centers operated by a local education agency in conjunction with other local governmental agencies and community organizations and groups to provide educational, recreational, health care, cultural, and other related community and human services for the community served in accordance with the needs, interests, and concerns of the community and the agreement and conditions of the governing board of the local educational agency; and

(3) additional programs, including—

(A) special programs to identify, encourage, and meet the special educational needs of children who give evidence of high performance capability in areas such as intellectual, creative, artistic, leadership capacity, or specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;

(B) establishment of educational proficiency standards for reading, writing, mathematics, or other subjects, the administration of examinations to measure the proficiency of students, and implementation of programs (coordinated with those under subchapter A of this chapter) designed to assist students in achieving levels of proficiency compatible with established standards;

(C) programs designed to promote safety in the schools and to reduce the incidence of crime and vandalism in the school environment;

(D) planning, developing, and implementing ethnic heritage studies programs to provide all persons with an opportunity to learn about and appreciate the unique contributions to the American national heritage made by the various ethnic groups, and to enable students better to understand their own cultural heritage as well as the cultural heritage of others; and

(E) programs involving training and advisory services under title IV of the Civil Rights Act of 1964.

(20 U.S.C. 3842) Enacted August 13, 1981, P.L. 97-35, sec. 582, 95 Stat. 475; amended October 14, 1982, P.L. 97-313, 96 Stat. 1462.

Subchapter D—Secretary's Discretionary Funds

DISCRETIONARY PROGRAM AUTHORIZED

SEC. 583. (a) From the sums reserved by the Secretary pursuant to the second sentence of section 563(a) the Secretary is authorized to carry out directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which—

(1) provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children, and others served by this subtitle, and for assessing the needs of such individuals;

(2) carry out research and demonstrations related to the purposes of this subtitle;

(3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of this subtitle; or

(4) are designed to assist State and local educational agencies in the implementation of programs under this subtitle.

(b) From the funds reserved for the purposes of this section, the Secretary shall first fund—

(1) the Inexpensive Book Distribution Program (as carried out through "Reading is Fundamental") as formerly authorized by part C of title II of the Elementary and Secondary Education Act of 1965,

(2) the programs of national significance in the "Arts in Education" Program as formerly authorized by part C of title III of such Act,

(3) programs in alcohol and drug abuse education as formerly authorized by the Alcohol and Drug Abuse Education Act,

(4) the law-related education program as formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965, and

(5) a National Diffusion Network program as described in subsection (c),

at least in amounts necessary to sustain the activities described in this sentence at the level of operations during fiscal year 1981 (or $1,000,000 in the case of the program referred to in paragraph (4) and not less than 34 percent of funds reserved for the purposes of this section in the case of the program referred to in paragraph (5)), and then utilize the remainder of such funds for the other authorized activities described in subsection (a).

(c)(1) The National Diffusion Network program under subsection (b)(5) shall be a national program that recognizes and furthers excellence in education by: (A) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and (B) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

(2) The program shall be directed toward improving the quality of education through the implementation of promising and validat-

ed innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

(3) In carrying out the program the Secretary shall—

(A) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

(B) assist them in implementing programs, products, and practices, which those persons determine to hold promise for improving the quality of education in the schools for which they are responsible by providing materials, initial training and ongoing implementation assistance;

(C) ensure that all such programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

(D) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

(E) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers;

(4) For the purpose of carrying out the program the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.

(20 U.S.C. 3851) Enacted August 13, 1981, P.L. 97-35, sec. 583, 95 Stat. 476; amended June 12, 1984, P.L. 98-312, sec. 4(b), 98 Stat. 234; amended Oct. 17, 1986, P.L. 99-498, sec. 1404, 100 Stat. .

Subchapter E—General Provisions

MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY

SEC. 585. (a)(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) The Secretary may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional or uncontrollable circum-

stances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(b) A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

(c) The Secretary is specifically authorized to issue regulations to enforce the provisions of this section.

(20 U.S.C. 3861) Enacted August 13, 1981, P.L. 97-35, sec. 585, 95 Stat. 477.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 586. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use under section 565, such agency after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter.

(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this chapter and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

(d) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount he estimated would be necessary to pay the cost of those services.

(f) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Secretary arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

(h)(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why that action should not be taken.

(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based this action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(i) Any bypass determination by the Secretary under titles II through VI and VIII and IX of the Elementary and Secondary Education Act of 1965 prior to the effective date of this chapter shall remain in effect to the extent consistent with the purposes of this chapter.

(20 U.S.C. 3862) Enacted August 13, 1981, P.L. 97-35, sec. 586, 95 Stat. 477.

REPEALS

Sec. 587. (a) Effective October 1, 1982, the provisions of—

(1) titles II, III, IV, V, VI, VIII, and IX (except part C) of the Elementary and Secondary Education Act of 1965;

(2) part A and section 532 of title V of the Higher Education Act of 1965;

(3) the Alcohol and Drug Abuse Education Act; and

(4) the Career Education Incentive Act;

are repealed.

(b) Effective October 1, 1984, subchapter C of chapter 8 of subtitle A of title VI of this Act, relating to Follow-Through programs is repealed.[1]

(20 U.S.C. 3863) Enacted August 13, 1981, P.L. 97-35, sec. 587, 95 Stat. 480

CHAPTER 3—GENERAL PROVISIONS

FEDERAL REGULATIONS

Sec. 591. (a) The Secretary is authorized to issue regulations—

(1) relating to the discharge of duties specifically assigned to the Secretary under this subtitle;

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[1] Section 201 of Public Law 99-425 extended the authorization of the Follow-Through programs to October 1, 1990.

(2) relating to proper fiscal accounting for funds appropriated under this subtitle and the method of making payments authorized under this subtitle; and

(3) which are deemed necessary to reasonably insure that there is compliance with the specific requirements and assurances required by this subtitle.

(b) In all other matters relating to the details of planning, developing, implementing, and evaluating programs and projects by State and local educational agencies the Secretary shall not issue regulations, but may consult with appropriate State, local, and private educational agencies and, upon request, provide technical assistance, information, and suggested guidelines designed to promote the development and implementation of effective instructional programs and to otherwise assist in carrying out the purposes of this subtitle.

(c) Regulations issued pursuant to this subtitle shall not have the standing of a Federal statute for the purposes of judicial review.

(d) Nothing in this subtitle shall be interpreted (1) to authorize State regulations, issued pursuant to procedures as established by State law, applicable to local educational agency programs or projects funded under this subtitle, except as related to State audit and financial responsibilities, or (2) to encourage, preempt, or prohibit regulations issued pursuant to State law which are not in conflict with the provisions of this subtitle. The imposition of any State rule or policy relating to the administration and operation of programs funded by this subtitle (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

(20 U.S.C. 3871) Enacted August 13, 1981, P.L. 97-35, sec. 591, 95 Stat. 480; amended December 8, 1983, P.L. 98-211, sec. 15, 97 Stat. 1416.

WITHHOLDING OF PAYMENTS

SEC. 592. (a) Whenever the Secretary after reasonable notice to any State educational agency and an opportunity for a hearing, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this subtitle the Secretary shall notify such agency of these findings and that beginning sixty days after the date of such notification, further payments will not be made to the State under this subtitle, or affected chapter thereof (or, in his discretion, that the State educational agency shall reduce or terminate further payments under the subtitle or affected chapter thereof, to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under the subtitle or affected chapter thereof, or (2) payments by the State educational agency under the subtitle or affected chapter thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be. A transcript or recording shall be made of any hearing conducted under this subsection and shall be available for inspection by any person.

(b) Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring his action to the attention of the public within the State.

(20 U.S.C. 3872) Enacted August 13, 1981, P.L. 97-35, sec. 592, 95 Stat. 480; amended December 8, 1983, P.L. 98-211, sec. 16, 97 Stat. 1417.

JUDICIAL REVIEW

SEC. 593. (a) If any State is dissatisfied with the Secretary's action under section 592(a), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) A State educational agency and a local educational agency shall be presumed to have complied with this subtitle, but the findings of fact by the Secretary, if supported by the weight of evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 3873) Enacted August 13, 1981, P.L. 97-35, sec. 593, 95 Stat. 481; amended December 8, 1983, P.L. 98-211, sec. 17, 97 Stat. 1417.

AVAILABILITY OF APPROPRIATIONS

SEC. 594. Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this subtitle shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the succeeding fiscal year.

(20 U.S.C. 3874) Enacted August 13, 1981, P.L. 97-35, sec. 594, 95 Stat. 481.

DEFINITIONS

SEC. 595. (a) Except as otherwise provided herein as used in this subtitle—

(1) the term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools;

(4) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(5) the term "parent" includes a legal guardian or other person standing in loco parentis;

(6) the term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade twelve;

(7) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade twelve;

(8) the term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities;

(9) the term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(10) the term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(b) Any term used in provisions referenced by section 554 and not defined in this section shall have the same meaning as that term was given in title I of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(20 U.S.C. 3875) Enacted August 13, 1981, P.L. 97-35, sec. 595, 95 Stat. 481.

APPLICATION OF OTHER LAWS

SEC. 596. (a) Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this subtitle.

(b) The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this subtitle with respect to the programs authorized by this subtitle:

(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 591(a) of this subtitle.

(2) Section 426(a) of such Act is superseded by section 591(b) of this subtitle.

(3) Section 427 of such Act is superseded by section 556(b)(3) of this subtitle.

(4) Section 430 of such Act is superseded by sections 556(a) and 564(b) of this subtitle.

(5) Section 431A of such Act is superseded by section 558(a) of this subtitle.

(6) Section 453 of such Act is superseded by section 592 of this subtitle.

(7) Section 455 of such Act is superseded by section 593 of this subtitle with respect to judicial review of withholding of payments.

(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.

(20 U.S.C. 3876) Enacted August 13, 1981, P.L. 97-35, sec. 596, 95 Stat. 482; amended December 8, 1983, P.L. 98-211, sec. 18, 97 Stat. 1417.

[Note: Section 25(b) of Public Law 98-211 (97 Stat. 1419), as amended by section 708 of the Education Amendments of 1984, contained the following provision concerning compliance:

"(b) With respect to the period beginning July 1, 1982, and ending June 30, 1984, no recipient of funds under the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of such Act if such funds are expended either in accordance with such Act as in effect prior to the date of enactment of this Act or in accordance with such Act as amended by this Act."]

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (CONTINUED)

TITLE II—BASIC SKILLS IMPROVEMENT

[Repealed October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

TITLE III—SPECIAL PROJECTS

[Repealed October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

TITLE IV—EDUCATION IMPROVEMENT, RESOURCES, AND SUPPORT

[Repealed October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

TITLE V—STATE LEADERSHIP

[Repealed October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

TITLE VI—EMERGENCY SCHOOL AID

[Repealed October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

TITLE VII—BILINGUAL EDUCATION PROGRAMS[1]

SHORT TITLE

SEC. 701. This title may be cited as the "Bilingual Education Act."

(20 U.S.C. 3221) Enacted Jan. 2, 1968, P.L. 90-247, title VII, sec. 702, 81 Stat. 815; amended Aug. 21, 1974, P.L. 93-380, sec. 104, 88 Stat. 503; amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2370.

POLICY; APPROPRIATIONS

SEC. 702. (a) Recognizing—

(1) that there are large and growing numbers of children of limited English proficiency;

(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

(4) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

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[1] A new title VII was added by the Education Amendments of 1978 (P.L. 95-561, sec. 701). For its relationship to prior law, see title VII of the Elementary and Secondary Education Act of 1965 (P.L. 89-10, as amended prior to P.L. 95-561).

(5) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

(6) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

(7) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

(8) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

(9) that children of limited English proficiency have a high dropout rate and low median years of education;

(10) that the segregation of many groups of limited English proficient students remains a serious problem;

(11) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources;

(12) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

(13) that parent and community participation in bilingual education programs contributes to program effectiveness; and

(14) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English. Such programs may additionally provide for the development of student competence in a second language.

(b)(1) For the purposes of carrying out the provisions of this title, there are authorized to be appropriated for fiscal year 1985 and each of the three succeeding years such sums as may be necessary, subject to paragraph (7).

(2) There are further authorized to be appropriated to carry out the provisions of section 732, such sums as may be necessary for fiscal year 1985 and each of the three succeeding fiscal years, subject to paragraph (7).

(3) From the sums appropriated under paragraph (1) for any fiscal year which do not exceed $140,000,000, the Secretary shall reserve 4 percent for special alternative instructional programs and related activities authorized under this Act. From the sums appropriated under paragraph (1) for any fiscal year in excess of $140,000,000, the Secretary shall reserve 50 percent for special alternative instructional programs and related activities authorized under this Act, except that the amount of funds reserved for special alternative instructional programs and related activities pursuant to this paragraph shall not exceed 10 percent of the funds appropriated under paragraph (1).

(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this Act; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 721(a)(1).

(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

(6) The Secretary shall reserve from the amount not reserved pursuant to paragraphs (4) and (5) of this subsection such amount as may be necessary, but not in excess of 1 percent thereof, for the purposes of section 752.

(7) Notwithstanding paragraphs (1) and (2), no amount in excess of $176,000,000 is authorized to be appropriated to carry out the provisions of this title (including section 732) for fiscal year 1985.

(20 U.S.C. 3222) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 503, 504; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2268, 2269 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2370.

DEFINITIONS; REGULATIONS

SEC. 703. (a) The following definitions shall apply to the terms used in this title:

(1) The terms "limited English proficiency" and "limited English proficient" when used with reference to individuals means—

(A) individuals who were not born in the United States or whose native language is a language other than English;

(B) individuals who come from environments where a language other than English is dominant, as further defined by the Secretary by regulation; and

(C) individuals who are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, subject to such regulations as the Secretary determines to be necessary;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(2) The term "native language", when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 111(c)(2) of title I of the Elementary and Secondary Education Act of 1965.

(4)(A) The term "program of transitional bilingual education" means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(5)(A) The term "program of developmental bilingual education" means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English-language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

(6) The term "special alternative instructional programs" means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

(7) The term "family English literacy program" means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title.

(8) The term "programs of academic excellence" means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction which have an established record of providing effective, academically excellent instruction and which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

(9) The term "Office" means the Office of Bilingual Education and Minority Language Affairs.

(10) The term "Director" means the Director of the Office of Bilingual Education and Minority Languages Affairs.

(11) The term "Council" means the National Advisory and Coordinating Council on Bilingual Education.

(12) The term "Secretary" means the Secretary of Education.

(13) The term "other programs for persons of limited English proficiency" when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section

306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

(b)(1) In prescribing regulations under this title, the Secretary shall, through the National Advisory and Coordinating Council on Bilingual Education, consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in paragraphs (4), (5), (6), (7), and (8) of subsection (a), or any regulations restricting or expanding the definitions contained in such paragraphs.

(c) Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program.

(20 U.S.C. 3223) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 504, 505; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2269-2271 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2371.

Part A—Financial Assistance for Bilingual Education Programs

BILINGUAL EDUCATION PROGRAMS

Sec. 721. (a) Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

(1) programs of transitional bilingual education;

(2) programs of developmental bilingual education;

(3) special alternative instructional programs for students of limited English proficiency;

(4) programs of academic excellence;

(5) family English literacy programs;

(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act; and

(7) programs to develop instructional materials in languages for which such materials are commercially unavailable.

(b)(1)(A) A grant may be made under subsection (a) (1), (2), (3), or (4) of this section only upon application therefore by one or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with one or more local educational agencies.

(B) A grant may be made under subsection (a) (5) or (6) only upon application therefore by one or more local educational agencies; institutions of higher education, including junior or community colleges; and private nonprofit organizations, applying separately or jointly.

(c)(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary deems appropriate.

(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section, shall contain information regarding—

(A) the number of children enrolled in programs conducted by the local educational agency;

(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates, rates of referral to or placement in special education programs, and student dropout rates;

(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

(H) the resources needed to develop and operate or improve the proposed program;

(I) the activities which would be undertaken under the grant and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

(3) Applications for grants authorized under subsection (a)(3) of this section from applicants who desire to obtain priority in the awarding of such grants may contain information regarding (A) the administrative impracticability of establishing a bilingual education program due to the presence of small number of students of a particular native language, (B) the unavailability of personnel qualified to provide bilingual instructional services, or (C) the applicant's current or past efforts to establish a bilingual education program.

(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; rates of referral to or placement in special education programs; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual educational practices, techniques, and methods.

(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

(C) the extent to which the persons to be served by the program have been involved in its development;

(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

(d)(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for three years.

(B) During the first six months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant shall engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children. This subparagraph may be waived by the Secretary upon a determination that an applicant is prepared to operate successfully the proposed instructional program.

(C) Upon reapplication, grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall be renewed for two additional years unless the Secretary determines that—

(i) the applicant's program does not comply with the requirements set out in this title;

(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

(iii) there is no longer a need for the applicant's program.

(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose.

(2) Grants made pursuant to subsections (a)(4) and (a)(5) shall be for three years.

(3) Grants made pursuant to subsections (a)(6) and (a)(7) shall be for a period of one to three years.

(e) An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served; and

(4) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

(f) An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials; and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 733 of this title;

(4) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall—

(A) preclude a local education agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

(5) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

(6) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program and that, to the extent possible, college or university credit will be awarded for such training; and

(7) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

(A) the geographic distribution of children of limited English proficiency;

(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

(C) and with respect to grants to carry out programs described in subsections (a)(1), (a)(2), and (a)(3) of this section, the relative ability of particular local educational agencies within the State to provide such services and activities; and

(D) with respect to such grants, the relative numbers of persons from low-income families sought to be benefited by such programs.

(g) An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

(h) In the consideration of applications from local educational agencies to carry out programs authorized under this section, the

Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

(i) Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

(j) If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

(20 U.S.C. 3231) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 506, 507; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2271-2276 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2374.

INDIAN CHILDREN IN SCHOOLS

Sec. 722. (a) For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

(1) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) The term "tribally sanctioned educational authority" means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

(b) From the sums appropriated pursuant to section 702(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

(20 U.S.C. 3232) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 507, 508; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2276 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2379.

PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

USE OF FUNDS

SEC. 731. Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

(20 U.S.C. 3241) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 509, 510; amended Apr. 21, 1976, P.L. 94-273, sec. 3(7), 90 Stat. 376; amended Oct. 12, 1976, P.L. 94-482, sec. 501(d)(1), 90 Stat. 2237; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2278-2280 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2380.

GRANTS FOR STATE PROGRAMS

SEC. 732. (a) Upon an application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

(b) State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 721(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

(c) State programs authorized under this section may also provide for—

(1) the planning and development of educational programs such as those assisted under this title;

(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

(5) the training of State and local educational agency staff to carry out the purposes of this title; and

(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

(d) Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 702(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year shall not be less than $50,000 nor greater than 5 percent of the aggregate of the amounts paid under section 721 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

(e) Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(20 U.S.C. 3242) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 510, 511; amended Oct. 12, 1976, P.L. 94-482, sec. 501(a)(21) and (d)(2), 90 Stat. 2236, 2237; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 90 Stat. 2280, 2281 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2380.

PROGRAM EVALUATION REQUIREMENTS

SEC. 733. (a) The Secretary shall issue, within six months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with the National Advisory and Coordinating Council on Bilingual Education. Such regulations shall provide for the collection of information and data including—

(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program; and

(4) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, referral to or placement in special education classes, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

(20 U.S.C. 3243) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2381.

EVALUATION ASSISTANCE CENTERS

SEC. 734. The Secretary shall establish, through competitive grants to institutions of higher education, at least two evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of three years.

(20 U.S.C. 3244) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2381.

RESEARCH

SEC. 735. (a) The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

(b) Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of this title on the education of students who have language proficiencies other than English, and the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title;

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs;

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students; and

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students.

(c) In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, the National Advisory and Coordinating Council on Bilingual Education, representatives of State and local educational agencies, and appropriate groups and organizations involved in bilingual education.

(d) The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

(20 U.S.C. 3245) Enacted Oct. 19, 1984, P.L. 98–511, sec. 201, 98 Stat. 2382.

COORDINATION OF RESEARCH

SEC. 736. Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Director of the National Institute of Education shall consult with the Director and the National Advisory and Coordinating Council on Bilingual Education to insure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

(20 U.S.C. 3246) Enacted Oct. 19, 1984, P.L. 98–511, sec. 201, 98 Stat. 2382.

EDUCATION STATISTICS

SEC. 737. (a) Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, Puerto Rico, and the Trust Territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

(b) In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title.

(20 U.S.C. 3247) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2382.

PART C—TRAINING AND TECHNICAL ASSISTANCE

USE OF FUNDS

SEC. 741. (a) Funds available under this part shall be used for—

(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

(2) the training of persons to teach and counsel such persons;

(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

(b)(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

(c) An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be considered an application for a program of bilingual education for the purposes of section 721(e) of this title.

(d) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

(1) teaching English as a second language;
(2) use of a non-English language for instructional purposes;
(3) linguistics; and
(4) evaluation and assessment;

and involving parents in the educational process. Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

(20 U.S.C. 3251) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 511; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2281 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2383.

MULTIFUNCTIONAL RESOURCE CENTERS

SEC. 742. (a) Pursuant to subsection (a)(5) of section 741, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as "centers"). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

(b) In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

(20 U.S.C. 3252) Enacted Aug. 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 511, 512; amended Oct. 12, 1976, P.L. 94-482, sec. 501(d)(3), 90 Stat. 2237; amended Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2281, 2282 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2384.

FELLOWSHIPS

SEC. 743. (a) Pursuant to subsection (a)(2) of section 741, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For the fiscal year ending September 30, 1985, not less than 500 fellowships leading to a graduate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 751(c) of this title.

(b) The Secretary shall undertake an on-going longitudinal study of the impact of recipients of such fellowships on the field of bilingual education and alternative instructional programs for students of limited English proficiency and shall, through the clearinghouse established pursuant to section 735(b)(5) of this title, disseminate research undertaken by recipients of such fellowships.

(c) Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

(20 U.S.C. 3253) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2384.

PRIORITY

Sec. 744. In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

(20 U.S.C. 3254) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2385.

STIPENDS

Sec. 745. In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

(20 U.S.C. 3255) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2385.

Part D—Administration

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

Sec. 751. (a) There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the "Office") through which the Secretary shall carry out functions relating to bilingual education.

(b)(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

(c) The Secretary, in consultation with the Council, shall prepare and, not later than February 1 of 1986 and 1988, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(3) a report on and evaluation of the activities carried out under this title during the preceding two fiscal years and the extent to which each of such activities achieves the policy set forth in section 702(a);

(4) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(5)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States; and

(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years.

(d) In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and closely cooperate with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under subsection (c) shall include demonstration that such coordination has taken place.

(e) The Secretary shall ensure that the Office of Bilingual Education and Minority Languages Affairs is staffed with sufficent personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

(20 U.S.C. 3261) Enacted Nov. 1, 1978, P.L. 95-561, sec. 701, 92 Stat. 2282-2284 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2385.

NATIONAL ADVISORY AND COORDINATING COUNCIL ON BILINGUAL EDUCATION

Sec. 752. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory and Coordinating Council on Bilingual Education composed of twenty members appointed by the Secretary, one of whom shall be designated by the Secretary as Chairman. Members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English proficiency. Five members of the Council shall be State directors of bilingual education programs, at least three of whom shall represent States with large populations of limited English proficient students. Two members of the Council shall be experienced in research on bilingual education or evaluation of bilingual education programs. One member of the Council shall be experienced in research on methods of alternative instruction for language minority students or evaluation of alternative methods of instruction for such students. One member of the council shall be a classroom teacher of demonstrated teaching abilities using bilingual methods and techniques. One member of the Council shall be a classroom teacher of demonstrated teaching abilities using alternative instructional methods and techniques. One member of the Council shall be experienced in the training of teachers for programs of bilingual education. One member of the Council shall be experienced in the training of teachers for programs of alternative instruction. Two members of the Council shall be parents of students whose language is other than English, and one member of the Council shall be an officer of a professional organization representing bilingual education personnel. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1988.

(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

(c) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications and plans under this title, and in the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 751(c), and the administration and operation of other programs for persons of limited English proficiency.

(d) The Secretary shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445 of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively..

(20 U.S.C. 3262) Enacted Oct. 19, 1984, P.L. 98-511, sec. 201, 98 Stat. 2386.

TITLE VIII—COMMUNITY SCHOOLS

[Repealed October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

TITLE IX—ADDITIONAL PROGRAMS

[Repealed, except for part C, August 13, 1981, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

PART C—WOMEN'S EDUCATIONAL EQUITY

SHORT TITLE; PURPOSE

SEC. 931. (a) This part may be cited as the "Women's Educational Equity Act of 1978".

(b)(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

(c) As used in this part, the term "Council" means the National Advisory Council on Women's Educational Programs.

(20 U.S.C. 3341) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408 (a) and (b), 88 Stat. 554; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2298 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 402 (a) and (b), 98 Stat. 2389.

GRANT AND CONTRACT AUTHORITY

SEC. 932. (a) The Secretary of Education is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

(C) research and development activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

(b) For each fiscal year, the Secretary of Education shall use $6,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $6,000,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

(20 U.S.C. 3342) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408(d)(1), 88 Stat. 554; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2298, 2299 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, secs. 401(b), 403 (a) and (b), 98 Stat. 2389.

APPLICATION; PARTICIPATION

SEC. 933. (a) A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary of Education, at such time, in such form, and containing or accompanied by such information as the Secretary of Education may prescribe. Each such application shall—

(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(2) describe a program for carrying out one or more of the purposes set forth in section 932(a) which holds promise of making a substantial contribution toward attaining such purposes; and

(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application;

(b) Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

(20 U.S.C. 3343) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408(d) (2), and (3), 88 Stat. 554; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2299 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 401(b), 98 Stat. 2389.

CHALLENGE GRANTS

SEC. 934. (a) In addition to the authority of the Secretary under section 932, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 932(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

(1) comprehensive plans for implementation of equity programs at every educational level;

(2) innovative approaches to school-community partnerships;

(3) new dissemination and replication strategies; and

(4) other innovative approaches to achieving the purposes of this part.

(b) For the purposes described in clauses (1) through (4) of subsection (a), the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.

(20 U.S.C. 3344) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408(e), 88 Stat. 554, 555; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2299 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, secs. 401(b) and 404, 98 Stat. 2389.

CRITERIA AND PRIORITIES

SEC. 935. The Secretary of Education shall establish separate criteria and priorities for awards under sections 932(a)(1) and 932(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

(20 U.S.C. 3345) Enacted Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2299, 2300 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, secs. 401(b) and 405, 98 Stat. 2389, 2390.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

SEC. 936. (a) There is established in the Department of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the

advice and consent of the Senate, from among individuals, broadly representative of the general public and including (A) individuals who are experts in a wide range of issues of educational equity for women at all levels of education, including preschool, elementary and secondary education, higher education, and vocational and adult education; (B) individuals who are representative of and expert in the educational needs of racial and ethnic minority women, older women, and disabled women; (C) both women and men who have demonstrated commitment to and expertise in the purposes of this part; and (D) individuals who are representative of and expert in student financial assistance programs authorized under title IV of the Higher Education Act of 1965;

(2) the staff Director of the Civil Rights Commission;

(3) the Director of the Women's Bureau of the Department of Labor; and

(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairperson from among the members described in paragraph (1).

(b) The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

(c) The Council shall—

(1) advise the Secretary and the Congress on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

(2) make recommendations to the Secretary of Education with respect to the selection of funding priorities and allocation of any funds pursuant to this part, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(3) advise all Federal agencies which have education programs concerning those aspects of the programs which relate to the educational needs and opportunities of women;

(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

(5) disseminate information concerning the activities of the Council under this part.

(d) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

(20 U.S.C. 3346) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408(f), 88 Stat. 555; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2300 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, secs. 401(b) and 406, 98 Stat. 2389, 2390.

REPORTS, EVALUATION, AND DISSEMINATION

SEC. 937. (a) The Secretary of Education is directed, not later than September 30 of each of the years 1985 through 1989, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Secretary of Education, the Council shall oversee the evaluation of the program and projects assisted under this part and report on such evaluation in its annual report.

(b) The Office of Women's Educational Equity shall evaluate and disseminate (at low cost) all materials and programs developed under this part.

(20 U.S.C. 3347) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408(g), 88 Stat. 555; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2300, 2301 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, secs. 401(b) and 407, 98 Stat. 2391.

AUTHORIZATION OF APPROPRIATIONS

SEC. 938. For the purpose of carrying out this part there are authorized to be appropriated $10,000,000 for fiscal year 1985, $12,000,000 for fiscal year 1986, $14,000,000 for fiscal year 1987, $16,000,000 for fiscal year 1988, and $20,000,000 for fiscal year 1989.

(20 U.S.C. 3348) Enacted Aug. 21, 1974, P.L. 93-380, sec. 408(h), 88 Stat. 555; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 802, 92 Stat. 2301 (effective Oct. 1, 1978); amended Oct. 19, 1984, P.L. 98-511, sec. 408, 98 Stat. 2391.

TITLE X—GENERAL PROVISIONS

DEFINITIONS

SEC. 1001. As used in title II, III, IV, V, VI, VII, VIII, and IX of this Act, except when otherwise specified—

(a) The term "Commissioner" means the Commissioner of Education.

(b) The term "construction" means (1) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefore; or (2) acquisition of existing structures not owned by any agency or institution making application for assistance under this Act; or (3) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(c) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(d) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(e) The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(i) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(j) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands and for purposes of titles II, III, IV, VI, VII, VIII, and IX such terms also include the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(k) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(l) [Repealed]

(20 U.S.C. 3381) Enacted April 11, 1965, P.L. 89-10, Title VIII, sec. 801, formerly Title VI, sec. 601, 79 Stat. 55; redesignated as Title VII, sec. 701, Nov. 3, 1966, P.L. 89-750, Title I, sec. 161, 80 Stat. 1204; amended and redesignated Jan. 2, 1968, P.L. 90-247, Titles I, VII, secs. 142(b), 152(c), 702, 703, 81 Stat. 799, 803, 816, 819; amended April 13, 1970, P.L. 91-230, Title I, sec. 162, 84 Stat. 152; amended December 31, 1975, P.L. 94-193, sec. (c), 89 Stat. 1102; amended October 12, 1976, P.L. 94-482, Title V, Part A, sec. 501(1), 90 Stat. 2237; redesignated and amended Nov. 1, 1978, P.L. 95-561, secs. 801(2), 901(a).

FEDERAL ADMINISTRATION

SEC. 1002. In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall coordinate such programs on the Federal level with the programs being administered by such other departments and agencies. Federal departments and agencies administering programs which may be effectively coordinated with programs carried out under this Act or any Act amended by this Act, including community action programs carried out under title II of the Economic Opportunity Act of 1964, shall, to the fullest extent permitted by other applicable law, carry out such programs in such a manner as to assist in carrying out, and to make more effective, the programs under this Act or any Act amended by this Act.

(20 U.S.C. 3382) Enacted April 11, 1965, P.L. 89-10, Title VIII, sec. 803, formerly Title VI, sec. 603, 79 Stat. 57; redesignated as Title VII, sec. 703, and amended Nov. 3, 1966, P.L. 89-750, Title I, secs. 111(f), 161, 80 Stat. 1196, 1204; redesignated Jan. 2, 1968, P.L. 90-247, Title VII, sec. 702, 81 Stat. 816; amended April 13, 1970, P.L. 91-230, Title I, sec. 163, Title IV, 401(c)(2), 84 Stat. 153, 173, secs. (a) and (b) superseded by sec. 411 of P.L. 90-247, as amended by P.L. 91-230 (20 U.S.C. 1231); sec. 803(c) redesignated as sec. 1002 by sec. 801(2) of P.L. 95-561, 92 Stat. 2284.

WAIVER OF REQUIREMENTS FOR CERTAIN JURISDICTIONS

SEC. 1003. (a)(1) If the Commissioner determines that compliance with any of the requirements of this Act, or the Education Consolidation and Improvement Act of 1981 by Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands is impractical or inappropriate because of conditions or circumstances particular to any of such jurisdictions, he may waive any of those requirements upon the request of the State educational agency for such jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted.

(2) Any waiver of requirements under this subsection shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of this Act, including the submission by the jurisdiction concerned of a plan for the management of the funds in a manner designed to achieve the purposes of this Act.

(b)(1) If the Commissioner determines that compliance with any of the requirements of title I by Puerto Rico is impractical or inappropriate because of conditions or circumstances particular to that jurisdiction, he may waive any of those requirements upon the request of the State educational agency for that jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such waiver and the terms and conditions upon which such a waiver will be granted.

(2) Any waiver of requirements under this subsection shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of title I, including the submission by Puerto Rico of a plan for the management of the funds provided under such title, in order to insure that those funds are used in a manner designed to achieve the purposes of such title.

(3) No waiver may be granted under this subsection after July 1, 1980, or apply to any period after such date.

(20 U.S.C. 3383) Enacted August 21, 1974, P.L. 93-380, sec. 106, 88 Stat. 512, redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 801(2), 901(b), 92 Stat. 2284, 2305; amended December 8, 1983, P.L. 98-211, sec. 21, 97 Stat. 1418.

LIMITATION ON PAYMENTS UNDER THIS ACT

SEC. 1004. Nothing contained in this Act shall be construed to authorize the making of any payment under this Act, or under any Act amended by this Act, for religious worship or instruction.

(20 U.S.C. 3384) Enacted April 1965, P.L. 89-10, Title VIII, sec. 805, formerly Title VI, sec. 605, 79 Stat. 58; redesignated as Title VII, sec. 705, Nov. 3, 1966, P.L. 89-750, Title I, sec. 161, 80 Stat. 1204; redesignated Jan. 2, 1968, P.L. 90-247, Title VII, sec. 702, 81 Stat. 816; redesignated Nov. 1, 1978, P.L. 95-561, sec. 801(2), 92 Stat. 2284.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS

SEC. 1005. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3) preference shall be given to the training of Indians.

(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity or quality, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped and gifted and talented Indian children;

(F) early childhood programs, including kindergarten;

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(1) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) to improve the qualifications of such persons who are serving Indian students in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preference shall be given to the training of Indians.

(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.

(3) From the funds appropriated pursuant to subsection (g)(1) of this section, the Commissioner is also authorized to make grants to and contracts with Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for—

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(f)(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

(C) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

(D) provide for an evaluation of the effectiveness of the project in achieving its purpose and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. The Commissioner shall not approve an application for a grant under subsection (b), (c), (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this

subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.

(g)(1) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal years ending prior to October 1, 1989.

(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1989. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.

(3) Notwithstanding paragraphs (1) and (2), the amount that is authorized to be appropriated to under this subsection for each of the fiscal years 1987, 1988, and 1989, is the amount appropriated for such purpose for fiscal year 1986.

(20 U.S.C. 3385) Enacted June 23, 1972, P.L. 92-318, sec. 421(a); 86 Stat. 339, 341; amended August 21, 1974, P.L. 93-380, sec. 631(a), 88 Stat. 585; amended August 21, 1974, P.L. 93-380, sec. 632(a), 88 Stat. 586; redesignated and amended Nov. 1, 1978, P.L. 95-561, sec. 801(2), 1141(a), 1150(a)-(e), 92 Stat. 2284, 2328, 2331; amended Aug. 6, 1979, P.L. 96-46, sec. 1(21), 93 Stat. 239; amended Oct. 19, 1984, P.L. 98-511, sec. 513(c), 98 Stat. 2400.

OPEN MEETINGS OF EDUCATIONAL AGENCIES

Sec. 1006. No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section.

(20 U.S.C. 3386) Enacted August 21, 1974, P.L. 93-380, sec. 110, 88 Stat. 513; redesignated Nov. 1, 1978, P.L. 95-561, sec. 801(2), 92 Stat. 2284.

Public Law 874, 81st Congress

(Impact Aid)

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

DECLARATION OF POLICY

SECTION 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local educational agencies upon which the United States has placed financial burdens by reason for the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

(20 U.S.C. 236) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong. sec. 1, 64 Stat. 1100; amended April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 27.

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2.[1] (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to October 1, 1988—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by in-

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[1] Section 302 of the Education Amendments of 1984 (P.L. 98-511) provides as follows:

SEC. 302. In the case of any local educational agency which the Secretary of Education determines has received, for any fiscal year after fiscal year 1976, an overpayment under section 2 of the Act of September 30, 1950 (20 U.S.C. 237) as a consequence of a recomputation of need based on revised data, the Secretary shall not require more than 10 percent of the amount of the overpayment to be repaid (or deducted from current payments) in any fiscal year.

creases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired, then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency, and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

(20 U.S.C. 237) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title I, sec. 2, 64 Stat. 1101; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong., sec. 1, 67 Stat. 530; amended Aug. 12, 1955, ch. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 3, 1956, ch. 915, P.L. 949, 84th Cong., Title II, sec. 201, 70 Stat. 970; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 201, 72 Stat. 559; amended Oct 3, 1961, P.L. 87-344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18; 1963, P.L. 88-210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89-10, Title I, secs. 2, 5, 79 Stat. 27, 36; amended Jan. 2, 1968, P.L. 90-247, Title II, III, secs, 204(a)-(c) 301(e), 81 Stat. 808, 813; redesignated Oct. 16, 1968, P.L. 90-576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended Apr. 13, 1970, P.L. 91-230, Title II, sec. 201(b), 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 303(a)(1), 88 Stat. 522; amended April 21, 1976, P.L. 94-273, sec. 3(5), 90 Stat. 376; amended Nov. 1, 1978, P.L. 95-561, sec. 1001(a), 92 Stat. 2306; amended Oct. 19, 1984, P.L. 98-511, sec. 301(a), 98 Stat. 2388.

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

CHILDREN OF PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

Sec. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 403(1).

CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to October 1, 1988, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or in whole or in part in the school district of such agency if the school district is located in more than one county, or (B) if not in such county or district, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to October 1, 1988, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence of any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

ELIGIBILITY FOR PAYMENTS

(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection

(a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

(A) at least four hundred such children; or

(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

(2)(A)(i) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

(ii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title;

the Commissioner is authorized to waive such requirement with respect to such agency.

(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

AMOUNT OF PAYMENTS

(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 20 per centum of the total number of children who were to average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), (B)(v); and

(B) in any other case, an amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b).

(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and

(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).

(2)(A)[1] (Repealed)

(B) If the Commissioner determines that

(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or subsection (b), or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner shall increase the actual payment made pursuant to the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. Subject to the provisions of subsection (h) of this section, the Commissioner shall not, under, the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

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[1] Subparagraph (A) repealed Nov. 1, 1978, P.L. 95-561, sec. 1004, 92 Stat. 2307.

(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or subsection (b), or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made. In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both. In carrying out the provisions of this subparagraph, the Secretary shall count the actual number of children with respect to such agency for each fiscal year under subsection (b) without regard to the provisions of subparagraph (E) of this paragraph.

(C)(i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3) and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 150 per centum.

(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(iii) The Commissioner shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations the Commissioner shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 602(1) of the Education of the Handicapped Act and the term "children with specific learning disabilities" has the same meaning as specified in section 602(15) of such Act.

(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.

(E)(i) The amount of the entitlement of any local educational agency under this section for fiscal year 1982 with respect to children determined under subsection (b) with respect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 66⅔ per centum.

(ii) The amount of the entitlement of any local educational agency under this section for any of the fiscal years 1983 through 1988 with respect to children determined under subsection (b) with respect to such agency shall be the amount determined under paragraph (1) with respect to such children multiplied by 33⅓ per centum.

(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency.

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to State law where the remainder of such real property tax is transferred to the State.

(D) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

ADJUSTMENTS FOR DECREASES IN FEDERAL ACTIVITIES

(e) Whenever the Commissioner determines that—

(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

DETERMINATIONS ON THE BASIS OF ESTIMATES

(f) Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an under-estimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(g) Notwithstanding any other provisions of this Act, no State may require that a vote of the qualified electors of a heavily impacted school district of a local educational agency be held to determine if such school district will spend the amounts to which the local educational agency is entitled under this Act.

SPECIAL PROVISIONS

(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.

(20 U.S.C. 238) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st, Cong., Title I, sec. 3, 64 Stat. 1102; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong., sec. 2, 67 Stat. 530; amended Aug. 12, 1955, ch. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 1, 1956, ch. 852, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended Aug. 3, 1956, ch. 915, P.L. 949, 84th Cong., Title II, secs. 202–206, 70 Stat. 970, 971; amended Aug. 12, 1958, P.L. 85–620, Title II, sec., 202, 72 Stat. 559; amended June 25, 1959, P.L. 86–70 sec. 18(d)(1)–(3), 73 Stat. 144; amended July 12, 1960, P.L. 86–624, sec. 14(d)(1)–(3), 74 Stat. 414: amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L. 88–665, Title XI, sec. 1102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89–10, Title I, secs. 2, 3(a), 4(d)(2), 5, 79 Stat. 27, 34–36; amended Nov. 1, 1965, P.L. 89–313, sec. 4(a), 79 Stat. 1161; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 201, 80 Stat. 1210; amended Jan. 2, 1968, P.L. 90–247, Titles II, III, secs. 204(d), 205(a), 206, 301(e), 81 Stat. 808, 809, 813; redesignated Oct. 16, 1968, P.L. 90–576, Title I, sec. 101(a)(1), 82 Stat. 1064, amended April 13, 1970, P.L. 91–230, Title II, secs. 201(b), 202, 84 Stat. 154, 155; amended August 21, 1974, P.L. 93–380, sec. 304, 88 Stat. 522; rewritten August 21, 1974, P.L. 93–380, sec. 305(a)(1), 88 Stat. 523, 529; amended April 21, 1976, P.L. 94–273, sec. 3(5), 90 Stat. 376; amended Nov. 1, 1978, P.L. 95–561, Title X, 92 Stat. 2306, 2307, 2312, 2313; amended August 13, 1981, P.L. 97–35, sec. 505(a)(2), 95 Stat. 442. The amendments made by sec. 1003 of P.L. 95–561 are effective with respect to fiscal year 1980 and subsequent fiscal years. Section 3 further amended September 24, 1983, P.L. 98–94, sec. 1255(b), 97 Stat. 701; amended Oct. 19, 1984, P.L. 98–511, secs. 301(a) and 303(a), 98 Stat. 2388; amended July 2, 1986, P.L. 99–349, sec. 2, 100 Stat. 739.

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE INCREASES HEREAFTER OCCURRING

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to October 1, 1988—

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance but is unable to secure sufficient funds to meet the increased educational costs involved,

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which the Commissioner determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance; and

(B) the amount which the Commissioner determines to be the current expenditures per child necessary to provide free public education to such additional children during such year, minus the amount which the Commissioner determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under this Act or funds from local sources necessary to provide free public education to other children).

For the next fiscal year (except where the determination under the preceding sentence has been made with respect to the fiscal year ending June 30, 1968) such agency shall be entitled to receive 50 per centum of such product reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, but not to exceed for such year the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds (exclusive of funds available under title II) available to it for such purpose, to provide a level of education equivalent to that maintained in the school districts in such State which in his judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purposes of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlements to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by the Commissioner after considering the current expenditures per child in providing free public education in those school districts in the State which, in the judgment of the Commissioner, are generally comparable to the school district of the local educational agency for which the computation is being made.

INCREASES HERETOFORE OCCURRING

(b) (Subsection 4(b) has been executed.)

COUNTING OF CERTAIN CHILDREN

(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year: *Provided,* That the Commissioner shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of the Commissioner, its election that such increase be counted for such purposes instead of for the purposes of section 3; and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 403.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(d) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur.

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

CONSULTATION WITH STATE AND LOCAL AUTHORITIES

(e) All determinations of the Commissioner under this section shall be made only after consultation with the State educational agency and the local educational agency.

(20 U.S.C. 239) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title I, sec. 4, 64 Stat. 1104; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong., secs. 3-5, 67 Stat. 552; amended Aug. 12, 1955, ch. 868, P.L. 382, 84th Cong., secs. 1, 2, 69 Stat. 713; amended Aug. 3, 1956, ch. 915, P.L. 896, 84th Cong., Title II, secs, 207, 208, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 203, 72 Stat. 560; amended Oct. 3, 1961, P.L. 87-344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88-210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L.

88-665, Title XI, sec. 102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89-10, Title I, secs. 3(b), 5, 79 Stat. 34, 36; amended Jan. 2, 1968, P.L. 90-247, Title III, sec. 301(e), 81 Stat. 813, redesignated Oct. 16, 1968, P.L. 90-576, Title I, sec. 101(a)(1), 82 Stat. 1064, amended April 13, 1970, P.L. 91-230, Title II, sec. 201(b), 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 303(a)(2), 88 Stat. 522; amended April 21, 1976, P.L. 94-273, sec. 3(5), 90 Stat. 376; amended Nov. 1, 1978; P.L. 95-561, Title X, 92 Stat. 2306; amended Oct. 19, 1984, P.L. 98-511, sec. 301(a), 98 Stat. 2388.

SPECIAL PROGRAM

Sec. 4A. [Repealed August 3, 1981, P.L. 97-35, sec. 542 (1), 95 Stat. 458.]

METHOD OF MAKING PAYMENTS [1]

APPLICATION

Sec. 5.[2] (a) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

PAYMENTS BY THE COMMISSIONER

(b)[2] The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a), the amount to which it is entitled under sections 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.

(3)[3] (A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

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[1] For the purposes of section 5 of the Act of September 23, 1950, the number of children in the membership of a local educational agency residing in a low-rent housing project assisted under the United States Housing Act of 1937 during the years of the base period preceding the effective date provided in paragraph (1) shall be determined by the Commissioner on the basis of estimates. Paragraph (1) provides that the effective date for amendments made by P.L. 91-231, sec. 203(a)(6) is after June 30, 1970.

[2] Section 5(a)(2) repealed and section 5(a)(1) redesignated as section 5(a) on Nov. 1, 1978, by P.L. 95-561, sec. 1101(b), 92 Stat. 2313, effective Oct. 1, 1979.

[3] Paragraph (3) added Nov. 1, 1978, P.L. 95-561, sec. 1101(c), 92 Stat. 2313-2315, effective Oct. 1, 1979.

(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local educational agency;

(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

(iii) tribes and parents of Indian children claimed under section 3(a) are—

(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

(III) afforded a general opportunity to present their overall views on the educational program, including the operation of such programs, and the degree of parental participation allowed.

(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Commissioner regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

(ii) Within ten working days from receipt of the complaint, the Commissioner shall—

(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Commissioner determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(II) designate a hearing examiner to conduct the hearing; and

(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(iii) The hearing shall be held within thirty days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(iv) The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

(v) Within thirty days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

(vi)[1] Within thirty days of his receipt of the findings, recommendations, and record, the Commissioner shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for his decision.

(vii) Upon completion of his final determination, the Commissioner shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Commissioner's final determination. The final determination of the Commissioner shall be subject to judicial review.

(viii) In all actions under this subparagraph, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(D) If the local educational agency rejects the determination of the Commissioner, or if the remedy required is not undertaken within the time established and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, the Commissioner shall withhold payment of all moneys to which such local agency is entitled under section 3(d)(2)(D) until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency: *Provided,* That the Commissioner may not withhold such moneys during the course of the school year if he determines that it would substantially disrupt the educational programs of the local educational agency.

(E) If the local educational agency rejects the determination of the Commissioner and a tribe exercises the option under section

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[1] Subsection (d) of section 1101 of P.L. 95-561, enacted Nov. 1, 1978, states (at 92 Stat. 2315):

"(d) Within one year of the date of of enactment of this Act, the Secretary, in cooperation with the Commissioner, shall propose and promulgate special regulations which will provide that where a local educational agency does not undertake the remedial action required by the Commissioner under section 5(b)(3)(C)(vi) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Commissioner determines that an extension of time will not effectively encourage the remedy, the affected tribes may elect to contract with the Bureau under title I of the Indian Self-Determination and Education Assistance Act to provide educational services provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school. Such regulations shall also establish procedures whereby the funding necessary to provide such educational services may be obtained, and establish such procedures as are necessary to insure orderly and expeditious transition in provision of educational services."

1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with that Agency, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action (under such subsection (d)) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 3(d)(2)(D) of this Act. In such event, funds under such section shall not be withheld pursuant to subparagraph (D) and no further complaints with respect to such students may be filed under subparagraph (C)(i).

(F) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year.[1]

(2)(A) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount equal to 65 per centum of the amounts described in the following schedule:

(i) To each local educational agency—

(I) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

(II) described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of number of children under section 3(a) and section 3(b)(3) of such fiscal year;[2]

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[1] Section 330(b)(4) of Part B of Title III of P.L. 94-482 provides that this amendment shall take effect on July 1, 1975.

[2] The final four words of clause (i)(II) should read "for such fiscal year" rather than "of such fiscal year" as indicated.

(ii)[3] to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount of which such agency is entitled under section 3(d)(2)(D);

(iii) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(iv) to each local educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(v) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) (other than such children with respect to whom a payment is made under clause (i)(II) of this paragraph) which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(vi) to each local educational agency with respect to which a number of children is determined under clause (1) and clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year.

(vii) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year.

(B) From that part of the sums which remains after the allocation required by paragraph (1) and by subparagraph (A) of this paragraph for any fiscal year, he shall, in accordance with the requirements of subsection (e), allocate an amount not to exceed 35 per centum of the amounts described in the schedule set forth in subparagraph (A).

(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 3 and 4 in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2).

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2)(A) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

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[3] Division (ii), added Nov. 1, 1978 by P.L. 95-561, sec. 1101(e), 92 Stat. 2315, is effective "with respect to fiscal years beginning on or after" Nov. 1, 1978.

TREATMENT OF PAYMENTS BY THE STATES IN DETERMINING ELIGIBILITY FOR, AND THE AMOUNT OF, STATE AID

(d)(1) Except as provided in paragraph (2), no payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

(ii) the amount of such aid with respect to any such agency;

during that fiscal year or the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

(2) (A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues.

Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B) The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection, provided that the term 'equalize expenditures' shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

(C) (i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to the Commissioner of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Commissioner to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as the Commissioner finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Commissioner determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Commissioner shall certify such determination to that State.

(ii) Prior to certifying any determination under division (i) for any State for any fiscal year, the Commissioner shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of subparagraph (A).

(iii) The Commissioner shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.

HOLD HARMLESS; DISCRETIONARY ALLOCATIONS

(e)[1] (1) In carrying out the required allocations under paragraph (2) of subsection (c), if any amount remains after making allocations under paragraph (2)(A) of such subsection, the Commissioner shall allocate, from the amounts available under paragraph (2)(B) of such subsection, to each local educational agency described in the schedule in such paragraph (2)(A) an amount which shall not be less than 90 per centum of the amount paid to such agency under this section for the preceding fiscal year. If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous sentence, such amounts shall be ratably reduced.

(2) Any sums which remain from the amounts available under paragraph (2)(B) of subsection (c) after making payments required by the first sentence of paragraph (1) of this subsection shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements under sections 3 and 4 in accordance with appropriations Acts.

USE OF FUNDS PAID WITH RESPECT TO ENTITLEMENTS INCREASED UNDER SECTION 3(d)(2)(C)

(f) The amount of the payment to any local educational agency for any fiscal year which is attributable to a determination of children for increased payments under subparagraph (C) of section 3(d)(2) shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom such determination is made.

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[1] Amended Nov. 1, 1978, P.L. 95-561, sec. 1007(b), 92 Stat. 2308, 2309.

(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of the enactment of the Education Amendments of 1976, no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of final regulations, or, if the State is not in conformance with such regulations, until July 1, 1977.[2]

(g)[3] Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.

(h) If any legislation enacted after March 31, 1983, affects the determination of amounts of payments made on the basis of entitlements established under sections 2, 3, and 4 by placing any additional restriction on payments based on the concentration of children counted under subsection (a) or (b) of section 3 in the schools of a local educational agency, such restriction shall be applied, in the case of any State (other than a territory or possession of the United States) within which there is only one local educational agency, by treating each administrative school district within such State as a local educational agency (solely for the purpose of computing the amount of such payments). Treating such an administrative school district as a local educational agency under the preceding sentence shall not result, during fiscal year 1984, 1985, or 1986, in an increase of more than 10 per centum in the amount of funds paid to such State above the amount which would otherwise be paid to such State for such fiscal year.

(20 U.S.C. 240) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title I, sec. 5, 64 Stat. 1106; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong., secs. 6, 7, 67 Stat. 534; amended Aug. 3, 1956, ch. 915, P.L. 949, 84th Cong., Title II, sec. 209, 70 Stat. 972; amended April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 27; amended Nov. 3, 1966, P.L. 89-750, Title II, secs. 202, 203, 80 Stat. 1211, 1212; amended Oct. 16, 1968, P.L. 90-576, Title III, sec. 305(a), 82 Stat. 1097; amended April 13, 1970, P.L. 91-230, Title II, sec. 203(c)(4), 84 Stat. 156; subsection 5(a)(2) added June 23, 1972, P.L. 92-318, sec. 411(c)(1), 86 Stat. 339; subsection 5(d)(3) added August 21, 1974, P.L. 93-380, sec. 304(c)(2), 88 Stat. 522, 523; amended August 21, 1974, P.L. 93-380, sec. 304(d)(2), 88 Stat. 523; rewritten August 21, 1974, P.L. 93-380, sec 305(a)(2), 88 Stat. 529, 533; amended April 21, 1976, P.L. 94-273, sec. 3(5), 90 Stat. 376; amended October 12, 1976, P.L. 94-482, Title III, Part B, sec. 330, 90 Stat. 2221; amended Nov. 1, 1978, P.L. 95-561, Titles X, XI, 92 Stat. 2306 et seq. The amendments made by sec. 1007 of P.L. 95-561 are effective with respect to f.y. 1980 and subsequent fiscal years. Section 5 further amended Aug. 6, 1979, P.L. 96-46, sec. 3(b), 93 Stat. 342; amended December 8, 1983, P.L. 98-211, sec. 23, 97 Stat. 1419; amended Aug. 22, 1984, P.L. 98-398, 98 Stat. 1393; amended Oct. 19, 1984, P.L. 98-511, sec. 303(b), 98 Stat. 2389.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

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[2] Section 330 (b)(4) of Part B of Title III of P.L. 94-482 provides that this amendment shall take effect on July 1, 1975.

[3] Added Nov. 1, 1978, P.L. 95-561, sec. 1008, 92 Stat. 2309.

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.). Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia. In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(b) In any case in which the Commissioner makes such arrangements for the provision of free public education in facilities situated on Federal property, he may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who, during some portion of the fiscal year in which such education is provided, was employed on such property, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) in any case where in the judgment of the Commissioner the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such children reside, or the State educational agency, or both, will make reasonable tuition payments to the Commissioner for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and the Commissioner. Any amounts paid to the Commissioner by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(c) In any case in which the Commissioner makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States, in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. Dependents of excepted service professional employees of the schools shall be eligible to attend the schools. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(d) The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under his section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property. The Commissioner shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.

(e) To the maximum extent practicable, the Commissioner shall limit the total payments made pursuant to any such arrangement for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the per pupil cost of free public education provided for children in comparable communities in the State. The Commissioner shall limit the total payments made pursuant to any arrangement for educating children outside the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount he determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

(f) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of sections 3 and 4 of this Act. If a local educational agency refuses for any other reason to provide in any fiscal year free public education for children who reside on Federal property which is within the school district of that agency or which, in the determination of the Commissioner, would be within that school district if it were not Federal property, there shall be deducted from any amount to which the local educational agency is otherwise entitled for that year under section 3 or 4 an amount equal to (1) the amount (if any) by which the cost to the Commissioner of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children.

(g) The Commissioner shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

(h) A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.

(20 U.S.C. 241) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., sec. 6, 64 Stat. 1107; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong., sec. 8, 67 Stat. 535; amended Aug. 1, 1955, ch. 446, P.L. 204, 84th Cong., 69 Stat. 433; amended Aug. 1, 1956, ch. 852, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended May 6, 1960, P.L. 86-449, Title V, sec. 501, 74 Stat. 89; amended April 11, 1965, P.L. 89-10, Title I, secs. 2, 4(d)(2), 79 Stat. 27, 35; amended July 21, 1965, P.L. 89-77, sec. 2, 79 Stat. 243; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 204, 80 Stat. 1212; subsection (g) repealed April 13, 1970, P.L. 91-230, Title IV, sec. 401(f)(1) and superseded by sec. 422 of P.L. 90-247, Title IV, as amended (20 U.S.C. 1232a); amended (and subsections (g) and (h) added) Nov. 1, 1978, P.L. 95-561, sec. 1009, 1031, 92 Stat. 2309, 2310, 2312.

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

SEC. 7.[1] (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to October 1, 1988, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to October 1, 1988, as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate: *Provided*, That nothing contained in this Act shall be construed to authorize

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[1] Title II, Section 204(10) of Public Law 94-274 (Enacted April 21, 1976, 90 Stat. 392, 393) provides that the period of July 1, 1976 through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of section 7 of the Act of September 30, 1950.

> the making of any payment under this Act for religious worship or instruction,

the Commissioner may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

(b) In addition to and apart from the funds provided under subsection (a), the Commissioner is authorized to provide to such agency an amount which he determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

(c) There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

> (1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditure;
>
> (2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.

(e) Amounts paid by the Commissioner to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(20 U.S.C. 241-1) Enacted Nov. 1, 1965, P.L. 89-313, sec. 2, 79 Stat. 1159; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 218, 81 Stat. 811; amended April 13, 1970, P.L. 91-230, Title II, sec. 201(c), 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 303(a)(3), 88 Stat. 522; amended April 21, 1976, P.L. 94-273, sec. 3(5), 90 Stat. 376; amended Nov. 1, 1978, P.L. 95-561, sec. 1010(a), 92 Stat. 2310; amended Aug. 6, 1979, P.L. 96-46, sec. 3(a), 93 Stat. 342; amended Oct. 19, 1984, P.L. 98-511, sec. 301(a), 98 Stat. 2388.

TITLE II—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

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(NOTE.—This title was added by Title I of the Elementary and Secondary Education Act of 1965, and is cited as such.)

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

SHORT TITLE

SEC. 301. This title may be cited as the "Indian Elementary and Secondary School Assistance Act".

(20 U.S.C. 241aa, note) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

DECLARATION OF POLICY

SEC. 302. (a) In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational and culturally related academic needs, or both.

(b) The Secretary shall, in order to effectuate the policy set forth in subsection (a), carry out a program of making grants to local educational agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

(20 U.S.C. 241aa) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334; amended Nov. 1, 1978, P.L. 95-561, sec. 1142(a), 92 Stat. 2329; amended Oct. 19, 1984, P.L. 98-511, sec. 513(a), 98 Stat. 2399.

GRANTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 303.[1] (a)(1) For any fiscal year for which appropriations are authorized under section 307 of this Act, the Secretary shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(2)(A) From the sums appropriated under section 307(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this title an amount which bears the same ratio to such sums as the product of (i) the number of eligible Indian children (as determined under paragraph (1)), multiplied by (ii) the average per pupil expenditure per agency (as determined under subparagraph (c)), bears to the sum of such products for all such local educational agencies.

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[1] Title II, Section 205(6) of P.L. 94-274 (Enacted April 21, 1976, 90 Stat. 393, 394) provides that the period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning October 1, 1976 for the purposes of Section 303 of the Act of September 30, 1950.

(B) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under this subsection, with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment. The requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

(b)(1) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance in accordance with the provisions of this title to schools which—

(A) are located on or near reservations; and

(B)(i) are not local educational agencies; or

(ii) have not been local educational agencies for more than three years.

(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma or Alaska.

(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Secretary to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Secretary shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

(20 U.S.C. 241bb) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 335; amended August 21, 1974, P.L. 93-380, sec. 631(b), 88 Stat. 585; amended April 21, 1976, P.L. 94-273, sec. 3(5), 90 Stat. 376; amended Nov. 1, 1978, P.L. 95-561, secs. 1141(b), 1143, 92 Stat. 2328, 2329; amended Oct. 19, 1984, P.L. 98-511, sec. 513(a), 98 Stat. 2399

USES OF FEDERAL FUNDS

SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Secretary, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational or culturally related academic needs, or both, of Indian children; and

(3) the training of counselors at schools eligible for funding under this title in counseling techniques relevant to the treatment of alcohol and substance abuse.

(20 U.S.C. 241cc) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 335, 336; amended Nov. 1, 1978, P.L. 95-561, sec. 1142(b), 92 Stat. 2329; amended Oct. 19, 1984, P.L. 98-511, sec. 513(a), 98 Stat. 2400; amended Oct. 27, 1986, P.L. 99-570, sec. 4133(b)(1).

APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

SEC. 305. (a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, in-

crease the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, (including persons acting in loco parentis other than school administrators or officials) teachers, and, where applicable secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and written approval of a committee composed of, and selected by, parents of children participating (including persons acting in loco parentis other than school administrators or officials) in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) sets for such policies and procedures, including policies and procedures relating to the hiring of personnel, as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii);

(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.

(c) Amendments of applications shall, except as the Secretary may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

(20 U.S.C. 241dd) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 336, 337; amended Nov. 1, 1978, P.L. 95-561, sec. 1144, 92 Stat. 2329; amended Oct. 19, 1984, P.L. 98-511, sec. 513(a), 98 Stat. 2389.

PAYMENTS

Sec. 306. (a) The Secretary shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount estimated to be expended by such agency in carrying out activities under such application.

(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Secretary) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

(20 U.S.C. 241ee) Enacted June 23, 1972, P.L. 92-318, sec. 141, 86 Stat. 337; amended Nov. 1, 1978, P.L. 95-561, sec. 1150(f), 92 Stat. 2333; amended Oct. 19, 1984, P.L. 98-511, sec. 513(a), 98 Stat. 2390.

AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS

Sec. 307. (a) For the purpose of making payments under this title, there are authorized to be appropriated (1) for each of the fiscal years ending prior to October 1, 1986, such sums as may be necessary, and (2) for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.

(b) The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this title, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

(20 U.S.C. 241ff) Enacted June 23, 1972, P.L. 92-318, sec. 141, 86 Stat. 337, 338; amended Nov. 1, 1978, P.L. 95-561, sec. 1145, 92 Stat. 2330; amended Oct. 19, 1984, P.L. 98-511, sec. 513(a), 98 Stat. 2389.

TITLE IV—GENERAL PROVISIONS

ADMINISTRATION

Sec. 401.[1]

(a) (Repealed).

(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

(20 U.S.C. 242) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title III, sec. 301, formerly sec. 7, 64 Stat. 1107; redesignated April 11, 1965, P.L. 80–10 Title I, sec. 3(c)(1), 79 Stat. 35; amended Nov. 3, 1966, P.L. 89–750, Title II, sec. 205, 80 Stat. 1212; subsection (a) repealed Apr. 13, 1970, P.L. 91–230, Title IV, sec. 401(f)(1) and superseded by sec. 422 of P.L. 90–247, Title IV, as amended (20 U.S.C. 1232a); redesignated June 23, 1972, P.L. 92–318, sec. 411, 86 Stat. 334.

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

Sec. 402. (a) In carrying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

(c) Such portion of the appropriations of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the Bureau of the Budget determines to be available for the same purposes as title I, shall, except to the extent necessary to carry out during such year contracts made prior to the enactment of title I, be transferred to the Commissioner for use by him in carrying out such purposes.

(d)[1] No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operation of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C., sec. 452).

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[1] Title IV and section 401 of the Act of Sept. 30, 1950, P.L. 81-874. References in this title to Title I of the Elementary and Secondary Education Act of 1965, are to its original designation on enactment, "Title II" of Public Law 81-874.

[1] Section 505(c)(1) of the Omnibus Education Reconciliation Act of 1981 (P.L. 97-35, 95 Stat. 442) provided as follows:

(c)(1) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress), shall not apply during fiscal year 1982, or any succeeding fiscal year.

(20 U.S.C. 243) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title III, sec. 302, formerly sec. 8, 64 Stat. 1108; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong., sec. 9, 67 Stat. 536; amended Aug. 4, 1955, ch. 543, P.L. 221, 84th Cong., Ch. 11, sec 202, 69 Stat. 485; amended Aug. 12, 1955, ch. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 3, 1956, ch. 915, P.L. 949, 84th Cong., Title II, sec. 210, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II sec. 204, 72 Stat. 560; redesignated, and amended April 11, 1965, P.L. 89-10, Title I, sec. 3(c), 79 Stat. 35; amended April 13, 1970, P.L. 91-230, Title IV, sec. 401(c), 84 Stat. 173. Repealed provision superseded by sec. 411 of P.L. 91-247, Title IV, as amended (20 U.S.C. 1231(a)); redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

DEFINITIONS

SEC. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes, which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State and (E) any property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real

property under the jurisdiction of the Post Office Department and used primarily for the provision of postal service. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project.

(2) The term "child" means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title I, II, or III of the Elementary and Secondary Education Act of 1965.

(6) For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public elementary and secondary education through grade 12[1] in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational

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[1] For purposes of this paragraph, the limitation of free public education to "elementary and secondary education through grade 12", added Nov. 1, 1978 by P.L. 95-561, sec. 1012, 92 Stat. 2310, is effective Oct. 1, 1979.

agency receiving such tuition payment or entitled to receive such payment under the contract. A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or (3) of section 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year. Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.[2]

The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(20 U.S.C. 244) Enacted Sept. 30, 1950, ch. 1124, P.L. 874, 81st Cong., Title III, sec. 303, formerly sec. 9, 64 Stat. 1108; amended Aug. 8, 1953, ch. 402, P.L. 248, 83d Cong. sec. 10, 67 Stat. 536; amended Aug. 1, 1956, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended Aug. 3, 1956, ch. 915, P.L. 949, 84th Cong., Title II, sec. 211, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 205, 72 Stat. 560; amended June 25, 1959, P.L. 86-70, sec. 18(d)(4), 73 Stat. 145; amended July 12, 1960, P.L. 86-624, sec. 14(d)(4), 74 Stat. 414; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1102(b), 78 Stat. 1109; redesignated and amended April 11, 1965, P.L. 89-10, Title I, secs 3(c)(1), 4(a)-(c), (d)(1), (e), 79 Stat. 35; amended Nov. 1, 1965, P.L. 89-313, sec. 6(c), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 117(a)(1), (b) 80, Stat. 1198, 1199. Title II, sec. 206, 80 Stat. 1213; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 201, 81 Stat. 806; amended Apr. 13, 1970, P.L. 91-230, Title II, sec. 203(b), 84 Stat. 156. Amendments effective after June 30, 1970; redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334; amended August 21, 1974, P.L. 93-380, sec. 304 (d)(1), 88 Stat. 523; P.L. 93-380, sec. 101(a)(9)(K), 88 Stat. 501; amended April 21, 1976, P.L. 94-

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[2] The preceding two sentences added Nov. 1, 1978, P.L. 95-561, sec. 1013, 1014, 92 Stat. 2310, 2311.

273, sec. 49(d), 90 Stat 382; amended October 12, 1976, P.L. 94-482, Title V, Part A, sec. 501(n), 90 Stat. 2237, 2238; amended Nov. 1, 1978, P.L. 95-561, Title X, 92 Stat. 2306 et seq.

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

An Act To provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

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TITLE V—EDUCATION PROGRAMS

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ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 505. (a)(1) The total amount of appropriations to make payments under the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $740,000,000 for fiscal year 1985, $760,000,000 for fiscal year 1986, $780,000,000 for fiscal year 1987, and $800,000,000 for fiscal year 1988. Funds available for section 7 of such Act for each such fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, 81st Congress).

* * * * * * *

(3) If the amount appropriated for making payments under such Act for fiscal year 1985, 1986, 1987, or 1988 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(b) No funds are authorized to be appropriated for fiscal year 1985, 1986, 1987, or 1988 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A or 6 of such Act.

(c)(1) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress), shall not apply during fiscal year 1982, or any succeeding fiscal year.

(2) Funds appropriated to the Department of Defense shall be available to the Secretary of Defense for payments and arrangements of the kind that may be made by the Secretary of Education under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress).

(3) The Secretary of Defense shall delegate to the Secretary of Education responsibility for the conduct of programs with funds so available.

(20 U.S.C. 237, note) Enacted August 31, 1981, P.L. 97-35, sec. 505, 95 Stat. 442; amended September 24, 1983, P.L. 98-94, sec. 1255(a), 97 Stat. 700-7010; amended Oct. 19, 1984, P.L. 98-511, sec. 301(a), 98 Stat. 2388.

Public Law 815, 81st Congress

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE AND APPROPRIATION

SECTION 1. The purpose of this Act is to provide assistance for the construction of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each fiscal year thereafter, such sums as the Congress may determine to be necessary for such purpose. Sums so appropriated, other than sums appropriated for administration, shall remain available until expended.

(20 U.S.C. 631) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522 as Title III, sec. 301, P.L. 815, 1st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 548.

PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

SEC. 2. For each fiscal year the Commissioner shall determine the portion of the funds appropriated pursuant to section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

(20 U.S.C. 632) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522 as Title III, sec. 302, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 548.

ESTABLISHMENT OF PRIORITIES

SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) shall be not later that September 30, 1988. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence.

(20 U.S.C. 633) Similar provisions enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522 as Title III, sec. 303, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-

620, Title i, sec. 101, 72 Stat 548; amended Oct. 3, 1961, P.L. 87-344, Title I, sec. 101(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88-210, Title III, sec. 301(a), formerly sec. 301(a), 77 Stat. 419; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1101(a), 78 Stat. 1109; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 221, 80 Stat. 1213; amended Jan. 2, 1968, P.L. 90-247, Title III, sec. 301(d)(1), 81 Stat. 813; redesignated Oct. 16, 1968, P.L. 90-576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended April 13, 1970, P.L. 91-230, Title II, sec. 201(a)(1), 84 Stat. 154, 156; amended August 21, 1974, P.L. 93-380, sec. 301(a)(1), 88 Stat. 521; amended April 21, 1976, P.L. 94-273, sec. 2(13), 90 Stat. 375; amended Nov. 1, 1978, P.L. 95-561, sec. 1021(a), 92 Stat. 2311; amended Oct. 19, 1984, P.L. 98-511, sec. 301(b), 98 Stat. 2388.

FEDERAL SHARE FOR ANY PROJECT

SEC. 4. Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the second year following the increase period and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (1) are built or under contract as of the date on which the Commissioner set, under section 3, the earliest date on or before which the application for such project was filed, or (2) as of the date the application for such project is approved, are included in a project the application for which has been approved under this Act.

(20 U.S.C. 634) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522, as Title III, sec. 304, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 549; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 224, 80 Stat. 1214.

LIMITATIONS ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

(1) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

(B) the number of children determined with respect to such agency under section 3(a)(1) and such Act multiplied by 90 per centum of such cost;

(2) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3(b)(3) of such Act multiplied by 50 per centum of such cost;

(B) the number of children determined with respect to such agency under section 3(b)(1) of such Act multiplied by 45 per centum of such cost; and

(C) the number of children determined with respect to such agency under section 3(b)(2) of such Act multiplied by 40 per centum of such cost;

(3) the estimated increase, since the base year, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 15, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal property or residing with a parent employed on Federal property; and

(4) for the fiscal year ending June 30, 1967, the estimated number of children, without regard to the limitation in subsection (d), whose membership in the schools of such local educational agency resulted from a change in residence from land transferred to Mexico as part of a relocation of an international boundary of the United States, multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; but if, by reason of any other provision of law, this clause is not considered in computing the maximum payments a local educational agency may receive for the fiscal year ending June 30, 1967, the additional amount such agency would have been entitled to receive shall be added to such agency's entitlement for the first fiscal year for which funds appropriated to carry out this Act may be used for such purpose.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year.

(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have paragraph (2) apply to a child instead of paragraph (1), the determination of the maximum amount for such agency under subsection (a) shall be made without regard to such election.

(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d) is at least twenty and—

(1) in the case of paragraph (1) or (2), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least one thousand five hundred, whichever is the lesser; and

(2) In the case of paragraph (3), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least two thousand five hundred,

whichever is the lesser: *Provided,* That no local educational agency shall be regarded as eligible under this paragraph (2) unless the Commissioner finds that the construction of additional minimum school facilities for the number of children in such increase will impose an undue financial burden on the taxing and borrowing authority of such agency.

(d) If (1) the estimated number of nonfederally connected children who will be in the membership of the schools of a local educational agency at the close of the increase period is less than (2) 106 per centum of the number of such children who were in the average daily membership of such agency during the base year, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof, except that the number of children counted for the purposes of paragraph (1) or (2) of subsection (a) shall not be reduced by more than one thousand five hundred and that the number of children counted for the purposes of paragraph (3) of subsection (a) shall not be reduced by more than two thousand five hundred. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as nonfederally connected children except children whose membership in the base year and increase period was compared in computing an increase which meets the requirements of subsection (c).

(e) Notwithstanding the provisions of subsections (c), (d), and (f) of this section, whenever and to extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, the Commissioner may do any one or more of the following: (1) he may waive or reduce the minimum number requirement or any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence; or (3) he may waive or reduce the requirement contained in subsection (f).

(f) In determining under this section the total of the payments which may be made to a local educational agency on the basis of any application, the total number of children counted for purposes of paragraph (1), (2), or (3), as the case may be, of subsection (a) may not exceed—

(1) the number of children whose membership at the close of the increase period for the application is compared with mem-

bership in the base period for purposes of that paragraph, minus,

(2) the number of such children whose membership at the close of the increase period was compared with membership in the base year for purposes of such paragraph under the last previous application, if any, of the agency on the basis of which any payment has been or may be made to that agency.

(20 U.S.C. 635) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 523, as Title III, sec. 305, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 549; amended Nov. 1, 1965, P.L. 89-313, sec. 5, 79 Stat. 1161; amended Nov. 3, 1966, P.L. 89-750, Title II, secs. 222 (a), (e), 223, 226, 227, 80 Stat. 1213-1215; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 205(b), 207, 81 Stat. 809; amended April 13, 1970, P.L. 91-230, Title II, sec. 203(a)(3), 204, 84 Stat. 155, 157; amended May 21, 1970, P.L. 90-260, 84 Stat. 254; amended August 21, 1974, P.L. 93-380, sec. 302(a), 88 Stat. 521, 522; amended Nov. 1, 1978, P.L. 95-561, sec. 1022, 92 Stat. 2312.

APPLICATIONS

SEC. 6. (a) No payment may be made to any local educational agency under this Act except upon application therefor which submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him.

(b)(1) Each application by a local educational agency shall set forth the project for the construction of school facilities for such agency with respect to which it is filed, and shall contain or be supported by—

(A) a description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by the Commissioner;

(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than twenty years after the completion of the construction;

(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

(D) assurance that such agency will cause work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence;

(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district; and

(G) assurance that such agency will from time to time prior to the completion of the project submit such report relating to the project as the Commissioner may reasonably require.

(2) The Commissioner shall approve any application if he finds (A) that the requirements of paragraph (1) have been met and that

approval of the project would not result in payments in excess of those permitted by sections 4 and 5, (B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities, and (C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 3, have a higher priority: *Provided*, That the Commissioner may approve any application for payments under this Act at any time after it is filed and before any priority is established with respect thereto under section 3 if he determines that—

(i) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 3 which would qualify it for payments under this Act when such priorities are established, and

(ii) the number of children in the increase under section 5(a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

(c) No application under this Act shall be disapproved in whole or in part until the Commissioner of Education has afforded the local educational agency reasonable notice and opportunity for hearing.

(20 U.S.C. 636) Provisions similar in part enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 524, as Title III, sec. 303 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 551, as sec. 6, P.L. 815, 81st Cong.; subsection (b)(1)(E) repealed April 13, 1970, P.L. 91-230, Title IV, sec. 401(g)(4) and superseded by sec. 423 of P.L. 90-247, Title IV, as amended (20 U.S.C. 1232b).

PAYMENTS

Sec. 7. (a) Upon approving the application of any local educational agency under section 6, the Commissioner of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Commissioner of Education and the construction contract has been entered into, the Commissioner shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project.

(b) Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

(20 U.S.C. 637) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 525, as Title III, sec. 307 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 552, as sec. 7, P.L. 815, 81st Cong.

ADDITIONAL PAYMENTS

Sec. 8. Not to exceed 10 per centum of the sums appropriated pursuant to this Act for any fiscal year (exclusive of any sums appropriated for administration) may be used by the Commissioner, under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this Act but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the project covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational agencies whose need for additional aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

(20 U.S.C. 638) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 525, as Title III, sec. 308(a), P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 552, as sec. 8 of P.L. 815, 81st Cong.

WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

SEC. 9. Notwithstanding the preceding provisions of this Act, whenever the Commissioner determines that the membership of some or all of the children, who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Commissioner may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which he estimates would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency of constructing minimum school facilities for such children. The Commissioner may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this section (or section 309 of this Act as in effect January 1, 1958); any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

(20 U.S.C. 639) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 525, as Title III, sec. 309 of P.L. 815, 81st Cong. Enacted Aug 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 553, as sec. 9 of P.L. 815, 81st Cong.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 10. (a) In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Commissioner makes arrangements under this section for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Commissioner determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this Act, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

(b) When the Commissioner determines it is the interest of the Federal Government to do so, he may transfer to the appropriate local educational agency all the right, title, and interest of the United States in and to any facilities provided under this section (or sections 204 or 310 of this Act as in effect January 1, 1958). Any such transfer shall be without charge, but may be on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

(c) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 5 of this Act.

(20 U.S.C. 640) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 526, as Title III, sec. 310 of P.L. 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 553 as sec. 10 of P.L. 815, 81st Cong.; amended May 6, 1960, P.L. 86-449, Title V, sec. 502, 74 Stat. 89; amended July 21, 1965, P.L. 89-77, sec. 1, 79 Stat. 243; amended Nov. 3, 1966, P.L. 89-750, Title II, secs. 228, 229, 80 Stat. 1215; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 202, 81 Stat. 807; amended Nov. 1, 1978, P.L. 95-561, sec. 1023, 1031(b), 92 Stat. 2312.

WITHOLDING OF PAYMENTS

Sec. 11. (a) Whenever the Commissioner of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, the Commissioner may forthwith notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

(b) The final refusal of the Commissioner to approve part or all of any application under this Act, and the Commissioner's final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

(20 U.S.C. 641) Provision similar to subsection (a) enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 526 as Title III, sec. 311 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 554 as sec. 11 of P.L. 815, 81st Cong.

ADMINISTRATION

Sec. 12. [(a) Repealed.]

(b) The Commissioner of Education shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provision of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

(20 U.S.C. 642) Similar provision enacted Sept. 23, 1950, P.L. 815, 81st Cong., Title II, sec. 208, 64 Stat. 975. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 554, as sec. 12 of P.L. 815, 81st Cong.; subsections (a) and (d) repealed April 13, 1970, P.L. 91-230, Title IV, sec. 401 (f)(3) and (g)(4), 84 Stat. 173, 174, and superseded by secs. 422 and 423 of P.L. 90-247, as amended (20 U.S.C. 1232a, 1232b).

USE OF OTHER FEDERAL AGENCIES: TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 13. [(a) Repealed.]

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities, shall to the maximum extent practicable, comply with requests of the Commissioner for information he may require in carrying out the purposes of his Act.

(c) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purpose as this Act; except that nothing in this subsection shall affect the availability of appropriation authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children, or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaskan Public Works Act, approved August 24, 1949.

(20 U.S.C. 643) Similar provisions enacted Sept. 23, 1950, P.L. 815, 81st Cong., Title I, sec. 105, and Title II, sec. 209, 64 Stat. 969, 975. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 554, as sec. 13 of P.L. 815, 81st Cong.; subsection (a) repealed April 13, 1970, P.L. 91-230 Title IV sec. 401(c)(3), 84 Stat. 173, and superseded by sec. 411, P.L. 90-247, Title IV, as amended (20 U.S.C. 1231).

SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS

SEC. 14. (a) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100;

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State, and other financial assistance available for the purpose; and

(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of

a substantial percentage of the children in the membership of its schools,

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(b) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds one hundred; and

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

he may, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest, provide the additional assistance necessary to enable such agency to provide the minimum school facilities required for free public education of children in the membership of the schools of such agency who reside on Indian lands; but such additional assistance may not exceed the portion of the cost of constructing such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(d)[1] There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.

(c) If the Commissioner determines with respect to any local educational agency—

(1) that (A) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and (B) the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and (C) Federal property constitutes a substantial part of the school district of such agency,

(2) that the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities,

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance for the purpose, and

(4) that such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

he may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom the Commissioner finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as the Commissioner may consider to be in the public interest. Such assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this subsection.

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[1] Apparent error in P.L. 91-230, sec. 205. Subsection (c) should precede subsection (d) in this section.

(e) No payment may be made to any local educational agency under subsection (a) or (b) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. No payment may be made under subsection (a) or (b) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(f) Amounts paid by the Commissioner to local educational agencies under subsection (a) or (b) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with the Commissioner under this section, and may be paid in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(g) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to determinations made under this section.

(h) It is hereby declared to be the policy of the Congress that the provision of assistance pursuant to subsections (a) and (b) of this section shall be given a priority at least equal to that given to payments made pursuant to section 10 of this Act.

(20 U.S.C. 644) Similar provisions enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 526, as Title IV, sec. 401 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 555, as sec. 14 of P.L. 815, 81st Cong.; amended Oct. 3, 1961, P.L. 87-344, Title I, sec. 101(b), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88-210, Title I, sec. 301(b), formerly sec. 31(b), 77 Stat. 419; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1101(b), 78 Stat. 1109; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 225, 80 Stat. 1214; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 203, 81 Stat. 807; redesignated Oct. 16, 1968, P.L. 90-576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended April 13, 1970, P.L. 91-230, Title II, secs. 205(a) and 206, 84 Stat. 158, 159.

DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Except for the purposes of section 10, such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, any low-rent housing (whether or not owned by the United

States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers and (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services.

(2) The term "child" means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The membership of schools shall be determined in accordance with State law or, in the absence of State law governing such a determination, in accordance with regulations of the Commissioner; except that, notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the membership of such child shall be held and considered—

(A) if the two local educational agencies concerned so agree, and if such agreement is approved by the Commissioner, as membership of a school of the local educational agency receiving such tuition payment;

(B) in the absence of any such approved agreement, as membership of a school of the local educational agency so making or contracting to make such tuition payment.

In any determination of membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.

(6) The average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Commissioner of Education on the basis of the contract cost per square foot under contracts for the construction of school facilities (exclusive of costs of site improvements, equipment, and architectural, engineering, and legal fees) entered into in the State for the second year of the four year increase period designated in the application, increased by a percentage estimated by the Commissioner to represent additional costs for site improvements, equipment, and architectural, engineering, and legal fees, and multiplied by a factor estimated by

the Commissioner to represent the area needed per pupil in minimum school facilities. If the Commissioner finds that the information available for the State concerned for such preceding fiscal year is inadequate or not sufficiently representative, he shall determine such cost on the basis of such information as he has available and after consultation with the State educational agency. The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Commissioner, after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as he may obtain.

(7) Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment, shall be made as of the time of the approval of the application for which made, and shall be made on the basis of the best information available at the time of such approval.

(8) The terms "construct", "constructing", and "construction" include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(9) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public. Except as used in section 9 and 10, such term does not include interests in land and off-site improvements.

(10) Whether or not school facilities are minimum school facilities shall be determined by the Commissioner, after consultation with the State and local educational agencies, in accordance with regulations prescribed by him. Such regulations shall (A) require the local educational agency concerned to give due consideration to excellence of architecture and design, (B) provide that no facility shall be disqualified as a minimum school facility because of the inclusion of works of art in the plans therefor if the cost of such works of art does not exceed 1 per centum of the cost of the project, and (C) require compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this Act shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(11) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education or which has responsibility for the provision of such facilities.

(12) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(13) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Northern Mariana Islands, the Virgin Islands, or Wake Island.

(14) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year 1978–1979; and

(16) The term "increase period" means the period of four consecutive regular school years immediately following such base year.

(20 U.S.C. 645) Similar provisions enacted Sept. 23, 1950, P.L. 815, 81st Cong., Title II, sec. 210, 64 Stat. 976. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 556, as sec. 15 of P.L. 815, 81st Cong.; amended June 25, 1959, P.L. 86–70, sec. 18(c), 73 Stat. 144; amended July 12, 1960, P.L. 86–624, sec. 14(c), 74 Stat. 414; amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 101 (c), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 301(c), formerly sec. 31(c), 77 Stat. 419; amended Oct. 16, 1964, P.L. 88–665, Title XI, sec. 1101 (c), (d), 78 Stat. 1109; amended Nov. 3, 1966, P.L. 89–750, Title II, secs. 222 (b), (c), (d), 230–232, 80 Stat. 1213–1216; amended Jan. 2, 1968, P.L. 90–247, Titles II, III, secs. 201, 301(d)(2) 81 Stat. 806, 813; redesignated Oct. 16, 1968, P.L. 90–576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended April 13, 1970, P.L. 91–230, Title II, secs. 201(a)(2), 203(a)(1)(2), 84 Stat. 154, 155; amended August 21, 1974, P.L. 93–380, sec. 301(a)(2), 88 Stat. 521; amended Nov. 1, 1978, P.L. 95–561, sec. 1021(b), 1031(b), 92 Stat. 2312.

SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to October 1, 1988, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any

political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance on such school facilities, and required an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3)(B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 7(a)(4) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), with respect to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate,

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster.

(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this Act such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency. In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.

(d) Amounts paid by the Commissioner to local educational agencies under subsection (a) may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(e) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to this section.

(20 U.S.C. 646) Enacted Nov. 1, 1965, P.L. 89-313, sec. 1, 79 Stat. 1158; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 217, 81 Stat. 810; amended April 13, 1970, P.L. 91-230, Title II, sec. 201(c), 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 301(b), 88 Stat. 521; amended August 21, 1974, P.L. 93-380, sec. 302(b), 88 Stat. 522; amended April 21, 1976, P.L. 94-273, sec. 3(6), 90 Stat. 376; amended Nov. 1, 1978, P.L. 95-561, sec. 1010(b), 1024, 92 Stat. 2310-2312; amended Oct. 19, 1984, P.L. 98-511, sec. 301(b), 98 Stat. 2388.

SPECIAL BASE CLOSING PROVISION

SEC. 17. In determining the payment to be made to a local educational agency under this Act the Commissioner shall disregard the announcement, made November 19, 1964, of a decrease in or cessation of Federal activities in certain areas, and shall carry out such Act as if such announcement had not been made.

(20 U.S.C. 647) Enacted Nov. 1, 1965, P.L. 89-313, sec. 3, 79 Stat. 1161.

PART II—EDUCATION AND TRAINING OF THE HANDICAPPED

Education of the Handicapped Act[1]

PART A—GENERAL PROVISIONS

SHORT TITLE; STATEMENT OF FINDINGS AND PURPOSE

SEC. 601. (a) This title may be cited as the "Education of the Handicapped Act".

(b) The Congress finds that—

(1) there are more than eight million handicapped children in the United States today;

(2) the special educational needs of such children are not being fully met;

(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;

(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

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[1] Public Law 89-750 amended the Elementary and Secondary Education Act of 1965 by adding a new title VI; effective July 1, 1971, this Act (P.L. 91-230) replaced title VI. Also as of July 1, 1971, the Education of the Handicapped Act superseded the following: P.L. 90-538, Handicapped Children's Early Education Assistance Act; P.L. 85-926, Grants for Teaching in the Education of Handicapped Children; P.L. 88-164, titles III and V of the Mental Retardation Facilities and Community Mental Centers Construction Act of 1963; and P.L. 85-905, Instructional Media for Handicapped Children.

(c) It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.

(20 U.S.C. 1400) Enacted November 29, 1975 P.L. 94-142, sec. 3, 89 Stat. 774, 775.

DEFINITIONS

Sec. 602. (a) As used in this title—

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services.

(2)[1]

(3) The term "Advisory Committee" means the National Advisory Committee on the Education of Handicapped Children.

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

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[1] P.L. 98-199, sec. 2(2), repealed this paragraph which defined the term "Commissioner". That law further amended this Act by replacing all references to "Commissioner" or "Commissioner's" with "Secretary" or "Secretary's", respectively. (97 Stat. 1358)

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(10) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution;

(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered; and

(F) The term includes community colleges receiving funding from the Secretary of the Interior under Public Law 95-471.

(12) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

(14) The term "Secretary" means the Secretary of Education.

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(16) The term "special education" means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

(18) The term "free appropriate public education" means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 614(a)(5).

(19) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an interme-

diate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(20) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting (A) amounts received under this part or under title I or title VII of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this part or under such titles.

(21) The term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act (20 U.S.C. 880b-1(a)(2)).

(22) The term "intermediate educational unit" means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to handicapped children within that State.

(b) For purposes of part C of this title, "handicapped youth" means any handicapped child (as defined in section 602(a)(1)) who—

(1) is twelve years of age or older; or

(2) is enrolled in the seventh or higher grade in school.

(23)(A) The term "public or private nonprofit agency or organization" includes an Indian tribe.

(B) The terms "Indian", "American Indian", and "Indian American" mean an individual who is a member of an Indian tribe.

(C) The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

(20 U.S.C. 1401) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 602, 84 Stat. 175, amended November 29, 1975, P.L. 94-142, sec. 4(a), 89 Stat. 775, 776; amended December 2, 1983, P.L. 98-199, sec. 2, 97 Stat. 1357; amended October 8, 1986, P.L. 99-457, sec. 402, 100 Stat. 1172.

OFFICE OF SPECIAL EDUCATION PROGRAMS

SEC. 603. (a) There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs which shall be the principal agency in the Department for administering and carrying out this Act and other programs and activities concerning the education and training of the handicapped.

(b)(1) The Office established under subsection (a) shall be headed by a Deputy Assistant Secretary who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. The position of Deputy Assistant Secretary shall be in grade GS-18 of the General Schedule under section 5104 of title 5, United States Code, and shall be a Senior Executive Service position for the purposes of section 3132(a)(2) of such title.

(2) In addition to such Deputy Assistant Secretary, there shall be established in such office not less than six positions for persons to assist the Deputy Assistant Secretary, including the position of Associate Deputy Assistant Secretary. Each such position shall be in grade GS-15 of the General Schedule under section 5104 of title 5, United States Code.

(20 U.S.C. 1402) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 603, 84 Stat. 177; amended August 21, 1974, P.L. 93-380, sec. 612(a), 88 Stat. 579, 580; amended December 2, 1983, P.L. 98-199, sec. 3(a), 97 Stat. 1359.

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) In the case of any program authorized by this title, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, he may authorize the use of such funds for such purposes.

(b) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(20 U.S.C. 1404) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 605, 84 Stat. 177.

EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 606. The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act.

(20 U.S.C. 1405) Enacted November 29, 1975, P.L. 94-142, sec. 6(a), 89 Stat. 795.

GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

SEC. 607. (a) The Secretary is authorized to make grants and to enter into cooperative agreements with the Secretary of the Interior and with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act approved August 12, 1968 (Public Law 90–480), relating to architectural barriers.

(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

(20 U.S.C. 1406) Enacted November 29, 1975, P.L. 94-142, sec. 6(a), 89 Stat. 795; amended December 2, 1983, P.L. 98-199, sec. 5, 97 Stat. 1358; amended October 8, 1986, P.L. 99-457, sec. 401, 100 Stat. 1172.

REQUIREMENTS FOR PRESCRIBING REGULATIONS

SEC. 608. (a) For purposes of complying with section 431(b) of the General Education Provisions Act with respect to regulations promulgated under part B of this Act, the thirty-day period under such section shall be ninety days.

(b) The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act which would procedurally or substantively lessen the protections provided to handicapped children under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at IEP meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(c) The Secretary shall transmit a copy of any regulations promulgated under this Act to the National Advisory Committee on the Education of the Handicapped concurrently with publication in the Federal Register.

(20 U.S.C. 1407) Enacted December 2, 1983, P.L. 98-199, sec. 6, 97 Stat. 1359.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 609. Effective for fiscal years for which the Secretary may make grants under section 619(b)(1), no State or local educational agency or intermediate educational unit or other public institution or agency may receive a grant under parts C through G which relate exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 169(b)(1).

(20 U.S.C. 1400) Enacted October 8, 1986, P.L. 99-457, sec. 202, 100 Stat. 1158.

PART B—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

SETTLEMENTS AND ALLOCATIONS

SEC. 611. (a)(1) Except as provided in paragraph (3) and in section 619, the maximum amount of the grant to which a State is entitled under this part for any fiscal year shall be equal to—

(A) the number of handicapped children aged 3–5, inclusive, in a State who are receiving special education and related services as determined under paragraph (3) if the State is eligible for a grant under section 619 and the number of handicapped children aged 6–21, inclusive, in a State who are receiving special education and related services as so determined;

multiplied by—

(B)(i) 5 per centum, for the fiscal year ending September 30, 1978, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(ii) 10 per centum, for the fiscal year ending September 30, 1979, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iii) 20 per centum, for the fiscal year ending September 30, 1980, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iv) 30 per centum, for the fiscal year ending September 30, 1981, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

(v) 40 per centum, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;

except that no State shall receive an amount which is less than the amount which such State received under this part for the fiscal year ending September 30, 1977.

(2) For the purpose of this subsection and subsection (b) through subsection (e), the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made.

(4) For purposes of paragraph (1)(B), the term "average per pupil expenditure", in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subsection, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in av-

erage daily attendance to whom such agencies provided free public education during such preceding year.

(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

(i) handicapped children aged three to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged three to seventeen, inclusive, in such State and the State serves all handicapped children aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court,

(ii) handicapped children aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged five to seventeen, inclusive, in such State and the State does not serve all handicapped children aged three to five, inclusive, in the State pursuant to State law or practice on the order of any court; and

(iii) handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.

(B) For purposes of subparagraph (A), the number of children aged five to seventeen, inclusive, in any State shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1978—

(A) 50 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) 50 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with the priorities established under section 612(3).

(2) Of the funds which any State may use under paragraph (1)(A)—

(A) an amount which is equal to the greater of—

(i) 5 per centum of the total amount of funds received under this part by such State; or

(ii) $200,000;

may be used by such State for administrative costs related to carrying out sections 612 and 613;

(B) the remainder shall be used by such State to provide support services and direct services in accordance with the priorities established under section 612(3).

(c)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) except as provided in paragraph (4), 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 612(3).

(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

(i) an amount which is equal to the greater of—

(I) 5 per centum of the total amount of funds received under this part by such State; or

(II) $350,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 612 and 613; and

(ii) the part remaining after use in accordance with clause (i) shall be used by the State (I) to provide support services and direct services in accordance with the priorities established under section 612(3), and (II) for the administrative costs of monitoring and complaint investigation but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.

(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

(3) The provisions of section 613(a)(9) shall not apply with respect to amounts available for use by any State under paragraph (2).

(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

(i) such local educational agency or intermediate educational unit is entitled, under subsection (d), to less than $7,500 for such fiscal year; or

(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 614.

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to handicapped children residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

(d) From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, each local educational agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, as the number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this part.

(e)(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an

amount equal to an amount determined by the Secretary in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts available to all States under this part for that fiscal year. If the aggregate of the amounts, determined by the Secretary pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount allotted to such jurisdiction for any fiscal year, or $35,000, whichever is greater.

(f)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate amounts available to all States under this section for that fiscal year.

(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which—

(A) meets the applicable requirements of sections 612, 613, and 614(a),

(B) includes satisfactory assurance that all handicapped children aged 3 to 5, inclusive receive a free appropriate public education by or before the 1987–1988 school year,

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and designated local school boards before adoption of the policies, programs, and procedures required under sections 612, 613, and 614(a), and

(D) is approved by the Secretary.

Section 616 shall apply to any such application.

(g)(1) If the sums appropriated under subsection (h) for any fiscal year for making payments to States under subsection (a) are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(2) In the case of any fiscal year in which the maximum amounts for which States are eligible have been reduced under the first sentence of paragraph (1), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the last sentence of such paragraph, the State educational agency shall fix dates before which each local educational agency or intermediate educational unit shall report to the State

educational agency on the amount of funds available to the local educational agency or intermediate educational unit, under the provisions of subsection (d), which it estimates that it will expend in accordance with the provisions of this section. The amounts so available to any local educational agency or intermediate educational unit, or any amount which would be available to any other local educational agency or intermediate educational unit if it were to submit a program meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies or intermediate educational units, in the manner provided by this section, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

(h) For grants under subsection (a) there are authorized to be appropriated such sums as may be necessary.

(20 U.S.C. 1411) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 611, 84 Stat. 178; amended August 21, 1974, P.L. 93-380, sec. 614(a), 88 Stat. 580, 581; amended November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 776, 777, 778, 779, 780; amended June 14, 1980, P.L. 96-270, sec. 13, 94 Stat. 498; amended December 2, 1983, P.L. 98-199, sec. 15, 97 Stat. 1374; amended November 22, 1985, P.L. 99-159, Sec. 601, 99 Stat. 904; amended October 8, 1986, P.L. 99-457, sec. 201(b), 403, 404, 100 Stat. 1158, 1173.

ELIGIBILITY

SEC. 612. In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 613(b) in effect prior to the date of the enactment of the Education for All Handicapped Children Act of 1975 and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

> (A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;
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> (B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;
>
> (C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in

need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 617(c); and

(E) the amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commission.

(3) The State has established priorities for providing a free appropriate public education to all handicapped children, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children who are not receiving and education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in section 614(a)(5).

(5) The State has established (A) procedural safeguards as required by section 615, (B) procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for handicapped children with the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet educational standards of the State educational agency. This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the

costs of a free appropriate public education to be provided handicapped children in the State.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 613.

(20 U.S.C. 1412) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 612, 84 Stat. 178; amended June 23, 1972, P.L. 92-318, sec. 421(b)(1)(C), 86 Stat. 341; amended August 21, 1974, P.L. 93-380, sec. 614(b)(1), 88 Stat. 582; amended November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 780, 781, 782; amended October 8, 1986, P.L. 99-457, sec. 203(a), 100 Stat. 1158.

STATE PLANS

SEC. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this part shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as he deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this part will be expended in accordance with the provisions of this part, with particular attention given to the provisions of sections 611(b), 611(c), 611(d), 612(2), and 612(3);

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c-2), section 305(b)(8) of such Act (20 U.S.C. 844a(b)(8)) or its successor authority, and section 122(a)(4)(B) of the Vocational Education Act of 1963 (20 U.S.C. 1262(a)(4)(B)), under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) set forth, consistent with the purposes of this Act, a description of programs and procedures for (A) the development and implementation of a comprehensive system of personnel development which shall include the inservice training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar

projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing for such children special education and related services; and

(B) that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this part for services to any child who is determined to be erroneously classified as eligible to be counted under section 611(a) or section 611(d);

(6) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

(7) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out his functions under this part, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

(9) provide satisfactory assurance that Federal funds made available under this part (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of Federal, State and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and relat-

ed services provided to handicapped children under this part and in no case to supplant such Federal, State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State;

(10) provide, consistent with procedures prescribed pursuant to section 617(a)(2), satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 617;

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part, and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under section 618;

(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to (A) define the financial responsibility of each agency for providing handicapped children and youth with free appropriate public education, and (B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement.[1]

(14) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, and

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[1] So in original, probably should be a semicolon.

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State.

(b) Whenever a State educational agency provides free appropriate public education for handicapped children, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) as are contained in section 614(a), except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 614(a).

(c) The Secretary shall approve any State plan and any modification thereof which—

(1) is submitted by a State eligible in accordance with section 612; and

(2) meets the requirements of subsection (a) and subsection (b).

The Secretary shall disapprove any State plan which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d)(1) If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of handicapped children enrolled in private elementary and secondary schools as required by subsection (a)(4), the Secretary shall waive such requirement, and shall arrange for the provision of service to such children through arrangements which shall be subject to the requirements of subsection (a)(4).

(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this part to all handicapped children enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4).

(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) This Act shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for handicapped children within the State; and [1]

(20 U.S.C. 1413) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 613, 84 Stat. 179; amended August 21, 1974, P.L. 93-380, sec. 614(d), 88 Stat. 581, 582; amended November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 782, 783, 784; ; amended December 2, 1983, P.L. 98-199, sec. 7, 97 Stat. 1359; amended October 8, 1986, P.L. 99-457, sec. 203(b), 405, 100 Stat. 1159, 1174.

APPLICATION

SEC. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this part will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are handicapped, regardless of the severity of their handicap, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

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[1] So in original, probably should be States.

(B) establish policies and procedures in accordance with detailed criteria prescribed under section 617(c);

(C) establish a goal of providing full educational opportunities to all handicapped children, including—

(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 613(a)(3);

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all handicapped children, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education;

(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 612(5)(B), the provision of special services to enable such children to participate in regular educational programs;

(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

(2) provide satisfactory assurance that (A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property, (B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part (i) shall be used to pay only the excess costs directly attributable to the education of handicapped children, and (ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds, and (C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this part;

(3)(A) provide for furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in programs carried out under this part; and

(B) provide for keeping such records, and provide for affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subclause (A);

(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

(5) provide assurances that the local educational agency or intermediate educational unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually;

(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a); and

(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 612(5)(B), 612(5)(C), and 615.

(b)(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application meets the requirements of subsection (a), except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) is approved by the Secretary under section 613(c). A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application does not meet the requirements of subsection (a).

(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

(i) make no further payments to such local educational agency or such intermediate educational unit under section 620 until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a).

(B) The provisions of the last sentence of section 616(a) shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 615 which is adverse to the local educational agency or intermediate educational unit involved in such decision.

(c)(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 611(c)(4)(A)(i) or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 611(d) if an individual application of any such local educational agency had been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a) and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this part, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

(d) Whenever a State educational agency determines that a local educational agency—

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a);

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to handicapped children residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this part.

(e) Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 611(d), to such other local educational agencies within the State as are not adequately providing special education and related services to all handicapped children residing in the areas served by such other local educational agencies.

(f) Notwithstanding the provisions of subsection (a)(2)(B)(ii), any local educational agency which is required to carry out any program for the education of handicapped children pursuant to a State law shall be entitled to receive payments under section 611(d) for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

(20 U.S.C. 1414) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 614, 84 Stat. 181; amended November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 784, 785, 786, 787, 788.

PROCEDURAL SAFEGUARDS

Sec. 615. (a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this part shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b)(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

(i) proposes to initiate or change, or

(ii) refuses to initiate or change,

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully inform the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

(c) If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

(d) Any party to any hearing conducted pursuant to subsections (b) and (c) shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the advisory panel established pursuant to section 613(a)(12)).

(e)(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) who does not have the right to an appeal under subsection (c), and any party aggrieved by the findings and decision under subsection (c), shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party,

and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) During the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

(4)(A) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a handicapped child or youth who is the prevailing party.

(C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) No award of attorneys' fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if—

(i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

(ii) the offer is not accepted within ten days; and

(iii) the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.

(E) Notwithstanding the provisions of subparagraph (D), an award of attorneys' fees and related costs may be made to a parent or guardian who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Whenever the court finds that—

(i) the parent or guardian, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, experience, and reputation; or

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding,

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this subsection.

(G) The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of this Act.

(f) Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (b)(2) and (c) shall be exhausted to the same extent as would be required had the action been brought under this part.

(20 U.S.C. 1415) Enacted November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 788, 789; amended August 5, 1986, P.L. 99-372, secs. 2, 3, 100 Stat. 796, 797.

WITHHOLDING AND JUDICIAL REVIEW

SEC. 616. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

(1) that there has been a failure to comply substantially with any provision of section 612 or section 613, or

(2) that in the administration of the State plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan,

the Secretary (A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and (B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) within his jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children. If the Secretary withholds further payments under clause (A) or clause (B) he may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in clause (1) or clause (2), no further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) within his jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children, or payments by the State educational agency under this part shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b)(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 613, such

State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 1416) Enacted November 29, 1975 P.L. 94-142, sec. 5(a), 89 Stat. 789, 790.

ADMINISTRATION

Sec. 617. (a)(1) In carrying out his duties under this part, the Secretary shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this part;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

(D) assure that each State shall, within one year after the date of the enactment of the Education for All Handicapped Children Act of 1975, provide certification of the actual number of handicapped children receiving special education and related services in each State.

(2) As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975, the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting plans under this part in order to assure equity among the States.

(b) In carrying out the provisions of this part, the Secretary (and the Secretary, in carrying out the provisions of subsection (c)) shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) The Secretary shall take appropriate action, in accordance with the provisions of section 438 of the General Education Provisions Act, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

(d) The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 618 and to carry out his duties under subsection (a)(1) of this subsection without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

(20 U.S.C. 1417) Enacted November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 791.

EVALUATION

SEC. 618. (a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts and efforts by the Secretary of Interior to provide free appropriate public education to all handicapped children and youth and early intervention services to handicapped infants and toddlers; and

(2) to provide—

(A) Congress with information relevant to policymaking, and

(B) Federal, State, and local agencies and the Secretary of Interior with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.

(b) In carrying out subsection (a), the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to handicapped infants, toddlers, children and youth, and such additional information, from State and local educational agencies, the Secretary of Interior, and other appropriate sources, as is necessary for the implementation of this Act including—

(1) the number of handicapped infants, toddlers, children, and youth in each State receiving a free appropriate public education or early intervention services (A) in age groups 0-2 and 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category,

(2) the number of handicapped children and youth in each State who are participating in regular educational programs (consistent with the requirements of section 612(5)(B) and 614(a)(1)(C)(iv)) by disability category, and the number of handicapped children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who have been otherwise removed from the regular education environment,

(3) the number of handicapped children and youth exiting the educational system each year through program completion or otherwise (A) in age group 3-5, and (B) in age groups 6-11,

12-17, and 18-21 by disability category and anticipated services for the next year,

(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services and for early intervention services (which may be based upon a sampling of data from State agencies including State and local educational agencies),

(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped children and youth and early intervention services to handicapped infants and toddlers by disability category served, and the estimated number and type of additional personnel by disability category needed to adequately carry out the policy established by this Act, and

(6) a description of the special education and related services and early intervention services needed to fully implement this Act throughout each State, including estimates of the number of handicapped infants and toddlers in the 0-2 age group and estimates of the number of handicapped children and youth (A) in age group 3-5 and (B) in age groups 6-11, 12-17, and 18-21 and by disability category.

(c) The Secretary shall, by grant, contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

(d)(1) The Secretary may enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs assisted under this Act.

(2) An agreement under paragraph (1) shall—

(A) provide for the payment of not to exceed 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of programs assisted under the Act, and

(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

(4) In addition, the Secretary shall disseminate information from such studies to State agencies, regional resources centers, and clearinghouses established by this Act, and, as appropriate, to others involved in, or concerned with, the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

(e)(1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

(2) At least one study shall focus on obtaining and compiling current information available, through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services) and shall gather information needed in order to calculate a range of per pupil expenditures by handicapping condition.

(f)(1) Not later than 120 days after the close of each fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped children and youth and early intervention services for handicapped infants and toddlers. The annual report shall be transmitted to the appropriate committees of each House of Congress and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

(2) The Secretary shall include in each annual report under paragraph (1)—

(A) a compilation and analysis of data gathered under subsection (b),

(B) an index and summary of each evaluation activity and results of studies conducted under subsection (c),

(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act,

(D) an analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services,

(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities, and

(F) any recommendation for change in the provisions of this Act or any other Federal law providing support for the education of handicapped children and youth.

(3) In the annual report under paragraph (1) for fiscal year 1985 which is published in 1986 and for every third year thereafter, the Secretary shall include in the annual report—

(A) an index of all current projects funded under parts C through G of this title, and

(B) data reported under sections 621, 622, 623, 627, 634, 641, and 661.

(4) In the annual report under paragraph (1) for fiscal year 1988 which is published in 1989, the Secretary shall include special sections addressing the provision of a free appropriate public education to handicapped infants, toddlers, children, and youth in rural areas and to handicapped migrants, handicapped Indians (particularly programs operated under section 611(f)), handicapped Native Hawaiian, and other native Pacific basin children and youth,

handicapped infants, toddlers, children and youth of limited English proficiency.

(5) Beginning in 1986, in consultation with the National Council for the Handicapped and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, a description of the status of early intervention services for handicapped infants and toddlers from birth through age two, inclusive, and special education and related services to handicapped children from 3 through 5 years of age (including those receiving services through Head Start, Developmental Disabilities Programs, Crippled Children's Services, Mental Health/Mental Retardation Agency, and State child-development centers and private agencies under contract with local schools).

(g) There are authorized to be appropriated $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, and $4,200,000 for fiscal year 1989 to carry out this section.

(20 U.S.C. 1418) Enacted November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 791, 792, 793; amended December 2, 1983, P.L. 98-199, sec. 8, 97 Stat. 1360; amended October 8, 1986, P.L. 99-457, sec. 406, 100 Stat. 1174.

PRE-SCHOOL GRANTS

SEC. 619. (a)(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which—

(A) has met the eligibility requirements of section 612,

(B) has a State plan approved under section 613, and

(C) provides special education and related services to handicapped children aged three to five, inclusive.

(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

(i) $300 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), or

(ii) if the amount appropriated under subsection (e) exceeds the product of $300 and the total number of handicapped children aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3)—

(I) $300 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), plus

(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of handicapped children aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated number of such children in such State.

(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $400 instead of $300.

(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $500 instead of $300.

(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed $1,000 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3).

(E) If the actual number of additional children served in a fiscal year differs from the estimate made under clause (ii)(II) of the applicable subparagraph, subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed $3,800 per estimated handicapped child aged three to five, inclusive, who will be receiving or handicapped child, age three to five, inclusive, who is receiving special education and related services in such State.

(ii) If the amount appropriated under subsection (e) for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

(A) has met the eligibility requirements of section 612, and

(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all handicapped children aged three to five, inclusive.

(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if—

(A) the aggregate amount that was appropriated under subsection (e) for fiscal years 1987, 1988, and 1989 was less than $656,000,000, and

(B) the amount appropriated for fiscal year 1990 under subsection (e) is less than $306,000,000,

the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) for fiscal year 1990.

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed $1,000 for each handicapped child in such State aged three to five, inclusive.

(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c)(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall—

(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only handicapped children aged three to five, inclusive, shall be considered,

(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for handicapped children, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall—

(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only handicapped children aged three to five, inclusive, shall be considered,

(B) use not more than 20 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for handicapped children, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) or subsection (a)(2)(A)(ii)(I), as the case may be, as the number of handicapped children aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and

(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II), an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(ii)(II) as the estimated number of additional handicapped children aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to five, inclusive, who will be receiving special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

(d) If the sums appropriated under subsection (e) for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) are not sufficient to pay in full the maximum amounts which all

States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II). If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.

(e) For grants under subsections (a)(1) and (b)(1) there are authorized to be appropriated such sums as may be necessary.

(20 U.S.C. 1419) Enacted November 29, 1975, P.L. 94-142, sec. 5 (a), 89 Stat. 793; amended December 2, 1983, P.L. 98-199, sec. 9, 97 Stat. 1363; amended October 8, 1986, P.L. 99-457, sec. 201(a), 100 Stat. 1155.

PAYMENTS

SEC. 620. (a) The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this part. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this part after the State educational agency has approved applications of such agencies or units for payments in accordance with section 614(b).

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

(20 U.S.C. 1420) Enacted November 29, 1975, P.L. 94-142, sec. 5(a), 89 Stat. 793, 794.

PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

REGIONAL RESOURCE AND FEDERAL CENTERS

SEC. 621. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate State agencies providing early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center and the findings of the Secretary in monitoring reports prepared by the Secretary under section 617 of the Act. Each regional resource center established or operated under this section shall—

(1) assist in identifying and solving persistent problems in providing quality special education and related services for handicapped children and youth and early intervention services to handicapped infants and toddlers and their families,

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to handicapped children and youth and their families and early intervention services to handicapped infants and toddlers and their families,

(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant projects conducted by the Department of Education,

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of handicapped infants, toddlers, children, and youth, and

(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G.

(b) In determining whether to approve an application for a project under subsection (a), the Secretary shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

(c) Each regional resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 618.

(d) The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities.

(e) Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d), not less than the amount made available for this section in the previous fiscal year shall be made available for regional resource centers under subsection (a) and in no case shall more than $500,000 be made available for the center under subsection (d).

(20 U.S.C. 1421) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 621, 84 Stat. 181; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1363; amended October 8, 1986, P.L. 99-457, sec. 301, 100 Stat. 1159.

SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

SEC. 622. (a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies to—

(A) assure deaf-blind children and youth provision of special education and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth upon attaining the age of twenty-two, programs and services to facilitate their transition from educational to other services.

(2) A grant, cooperative agreement, or contract pursuant to paragraph (1)(A) may be made only for programs providing (A) technical assistance to agencies, institutions, or organizations providing educational services to deaf-blind children or youth; (B) preservice or inservice training to paraprofessionals, professionals, and related services personnel preparing to serve, or serving, deaf-blind children or youth; (C) replication of successful innovative approaches to providing educational or related services to deaf-blind children and youth; and (D) facilitation of parental involvement in the education of their deaf-blind children and youth. Such programs may include—

(i) the diagnosis and educational evaluation of children and youth at risk of being certified deaf-blind;

(ii) programs of adjustment, education, and orientation for deaf-blind children and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind children and youth.

(3) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations serving, or proposing to serve, deaf-blind individuals who have attained age twenty-two years; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, semisupervised, or independent living programs.

(4) In carrying out this subsection, the Secretary shall take into consideration the need for a center for deaf-blind children and youth in light of the general availability and quality of existing services for such children and youth in the part of the country involved.

(b) The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of techincal assistance in the education of deaf-blind children and youth.

(c)(1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly, served by each activity; and (C) the types of services provided.

(2) The Secretary shall examine the number of deaf-blind children and youth (A) reported under subparagraph (c)(1)(A) and by the States; (B) served by the programs under part B of this Act and subpart 2 of part B, title I, of the Elementary and Secondary Education Act of 1965 (as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981); and (C) the Deaf-Blind Registry of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

(3) The Secretary shall summarize these data for submission in the annual report required under section 618.

(d) The Secretary shall disseminate materials and information concerning effective practices in working with deaf-blind children and youth.

(e) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth.

(f) The Secretary may make grants to, or enter into contracts or cooperative agreements with, the entities under section 624(a) for the purposes in such section.

(20 U.S.C. 1422) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 622, 84 Stat. 182; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1364; amended October 8, 1986, P.L. 99-457, sec. 302, 100 Stat. 1160.

EARLY EDUCATION FOR HANDICAPPED CHILDREN

SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, speech, language development, and self-help skills of such children, (2) encourage the participation of the parents of such children in the development and operation of any such program, and[1] (3) acquaint the community to be served by any such program with the problems and potentialities of such children, (4) offer training about exemplary models and practices to State and local personnel who provide services to handicapped children from birth through eight, and (5) support the adaption of exemplary models and practices in States and local communities.

(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

(4)(A) Except as provided in subparagraph (B), no arrangement under paragraph (1) shall provide for the payment of more than 90 percent of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(B) The Secretary may waive the requirement of subparagraph (A) in the case of an arrangement entered into under paragraph (1) with governing bodies of Indian tribes located on Federal or State reservations and with consortia of such bodies.

(b) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the estabishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to handicapped children.

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[1] So in original, and should probably be deleted.

(c) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for handicapped children and their families.

(d) The Secretary may make grants to, enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of handicapped children and for training of personnel for programs specifically designed for handicapped children.

(e) At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (b) and (c), the Secretary shall publish in the Federal Register a notice of intent to accept application for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

(f) For purposes of this section the term "handicapped children" includes children from birth through eight years of age.

(20 U.S.C. 1423) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 623, 84 Stat. 183; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1365; amended October 8, 1986, P.L. 99-457, sec. 303, 100 Stat. 1161.

PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN

SEC. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, such organizations or institutions, as are determined by the Secretary to be appropriate, to address the needs of severely handicapped children and youth, for—

(1) research to identify and meet the full range of special needs of such handicapped children and youth,

(2) the development or demonstration of new, or improvements in, existing, methods, approaches, or techniques which would contribute to the adjustment and education of such handicapped children and youth,

(3) training of personnel for programs specifically designed for such children, and

(4) dissemination of materials and information about practices found effective in working with such children and youth.

(b) In making grants and contracts under subsection (a), the Secretary shall ensure that the activities funded under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

(c) To the extent feasible, programs, authorized by subsection (a) shall be geographically dispersed throughout the nation in urban and rural areas.

(20 U.S.C. 1424) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 624, 84 Stat. 183; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1366; amended October 8, 1986, P.L. 99-457, sec. 304, 100 Stat. 1162.

POSTSECONDARY EDUCATION

SEC. 625. (a)(1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for individuals with handicapping conditions other than deafness—

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals; and

(B) for programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers.

(3) Persons operating programs for handicapped persons under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 633(b).

(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept application for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispensed throughout the nation in urban and rural areas.

(6) Of the sums made available for programs under paragraph (1), not less than $2,000,000 shall first be available for the 4 regional centers for the deaf.

(b) For the purposes of subsection (a) the term "handicapped individuals" means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired individuals, or individuals with specific learning disabilities who by reason thereof require special education and related services.

(20 U.S.C. 1424a) Enacted August 21, 1974, P.L. 93-380, sec. 616, 88 Stat. 584; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1367; amended October 8, 1986, P.L. 99-457, sec. 305, 100 Stat. 1162.

SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH

SEC. 626. (a) The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (Public Law 97-300)) to—

(1) strengthen and coordinate special education and related services for handicapped youth currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services,

(2) stimulate the improvement and development of programs for secondary special education, and

(3) stimulate the improvement of the vocational and life skills of handicapped students to enable them to be better prepared for transition to adult life and services.

To the extent feasible, such programs shall be geographically dispersed through the Nation in urban and rural areas.

(b) Projects assisted under subsection (a) may include—

(1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for handicapped youth,

(2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, transitional services, and placement for handicapped youth,

(3) conducting demographic studies which provide information on the numbers, age levels, types of handicapping conditions, and services required for handicapped youth in need of transitional programs,

(4) specially designed vocational programs to increase the potential for competitive employment for handicapped youth,

(5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models,

(6) initiating cooperative models between educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and employers, which facilitate the planning and developing of transitional services for handicapped youth to postsecondary education, vocational training, employment, continuing education, and adult services,

(7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for handicapped youth,

(8) conducting studies which provide information on the numbers, age levels, types of handicapping conditions and reasons why handicapped youth drop out of school,

(9) developing special education curriculum and instructional techniques that will improve handicapped students' acquisition of the skills necessary for transition to adult life and services, and

(10) specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation.

(c) For purposes of paragraphs (1) and (2) of subsection (b), if an applicant is not an educational agency, such applicant shall coordinate with the State educational agency.

(d) Applications for assistance under subsection (a) other than for the purpose of conducting studies or evaluations shall—

(1) describe the procedures to be used for disseminating relevant findings and data to regional resource centers, clearinghouses, and other interested persons, agencies, or organizations,

(2) describe the procedures that will be used for coordinating services among agencies for which handicapped youth are or will be eligible, and

(3) to the extent appropriate provide for the direct participation of handicapped students and the parents of handicapped students in the planning, development, and implementation of such projects.

(e) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of handicapped children and youth and the dissemination of materials and information concerning practices found effective in working with such children and youth.

(f) The Secretary, as appropriate, shall coordinate programs described under subsection (a) with projects developed under section 311 of the Rehabilitation Act of 1973.

(20 U.S.C. 1425) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 625, 84 Stat 183; renumbered August 21, 1974, P.L. 93-380, sec. 616, 88 Stat. 584; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1367; amended October 8, 1986, P.L. 99-457, sec. 306, 100 Stat. 1163.

PROGRAM EVALUATIONS

SEC. 627. The Secretary shall conduct, either directly or by contract, a thorough and continuing evaluation of the effectiveness of each program assisted under this part. Results of the evaluations shall be analyzed and submitted to the appropriate committees of each House of Congress together with the annual report under section 618.

(20 U.S.C. 1426) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 626, 84 Stat. 184; renumbered and amended August 21, 1974, P.L. 93-380, sec. 616 and 617, 88 Stat. 584; amended June 17, 1977, P.L. 95-49, sec. 2, 91 Stat. 230; amended December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1368.

AUTHORIZATION OF APPROPRIATIONS

SEC. 628. (a) There are authorized to be appropriated to carry out section 621, $6,700,000 for the fiscal year 1987, $7,100,000 for fiscal year 1988, and $7,500,000 for fiscal year 1989.

(b) There are authorized to be appropriated to carry out section 622, $15,900,000 for fiscal year 1987, $16,800,000 for fiscal year 1988, and $17,800,000 for fiscal year 1989.

(c) There are authorized to be appropriated to carry out section 623, $24,470,000 for fiscal year 1987, $25,870,000 for fiscal year 1988, and $27,410,000 for fiscal year 1989.

(d) There are authorized to be appropriated to carry out section 624, $5,300,000 for fiscal year 1987, $5,600,000 for fiscal year 1988, and $5,900,000 for fiscal year 1989.

(e) There are authorized to be appropriated to carry out section 625, $5,900,000 for fiscal year 1987, $6,200,000 for fiscal year 1988, and $6,600,000 for fiscal year 1989.

(f) There are authorized to be appropriated to carry out section 626, $7,300,000 for fiscal year 1987, $7,700,000 for fiscal year 1988, and $8,100,000 for fiscal year 1989.

(20 U.S.C. 1427) Enacted December 2, 1983, P.L. 98-199, sec. 10, 97 Stat. 1368; amended October 8, 1986, P.L. 99-457, sec. 307, 100 Stat. 1165.

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

GRANTS FOR PERSONNEL TRAINING

SEC. 631. (a)(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including the university-affiliated facilities program under the Rehabilitation Act of 1973 and the satellite network of the developmental disabilities program) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education and early intervention, including—

(A) special education teaching, including speech-language pathology and audiology, and adaptive physical education,

(B) related services to handicapped children and youth in educational settings,

(C) special education supervision and administration,

(D) special education research, and

(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for handicapped children.

(2)(A) In making grants under paragraph (1), the Secretary shall base the determination of such grants on information relating to the present and projected need for the personnel to be trained based on identified State, regional, or national shortages, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards.

(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

(4) The Secretary in carrying out paragraph (1) may reserve a sum not to exceed 5 percent of the amount available for paragraph (1) in each fiscal year for contracts to prepare personnel in areas where shortages exist when a response to that need has not been adequately addressed by the grant process.

(b) The Secretary may make grants to institutions of higher education and other appropriate nonprofit agencies to conduct special projects to develop and demonstrate new approaches (including the application of new technology) for the preservice training purposes set forth in subsection (a), for regular educators, for the training of teachers to work in community and school settings with handicapped secondary school students, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children and personnel providing early intervention services.

(c)(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of handicapped children and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of handicapped children. Such grants shall be designed to meet the unique training and information needs of parents of handicapped children living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

(A) be governed by a board of directors on which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth, or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee on which a majority of the members are parents of handicapped children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under paragraph (1),

(B) serve the parents of children with the full range of handicapping conditions under such grant program; and

(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1).

(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under paragraph (1) shall meet at least once in each calendar quarter to review the parent training and information activities for which the grant is made, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under paragraph (1) for a fiscal year, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

(4) The Secretary shall ensure that grants under paragraph (1) will—

(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas, and

(B) be targeted to parents of handicapped children in both urban and rural areas or on a State or regional basis.

(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

(A) better understand the nature and needs of the handicapping conditions of children,

(B) provide followup support for handicapped children's educational programs,

(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals,

(D) participate in educational decisionmaking processes including the development of a handicapped child's individualized educational program,

(E) obtain information about the programs, services, and resources available to handicapped children and the degree to which the programs, services, and resources are appropriate, and

(F) understand the provisions for the education of handicapped children as specified under part B of this Act.

(6) Parent training and information programs may, at a grant recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

(7) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the program.

(8) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.

(20 U.S.C. 1431) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 631, 84 Stat. 184; amended December 2, 1983, P.L. 98-199, sec. 11, 97 Stat. 1369; amended October 8, 1986, P.L. 99-457, sec. 308, 100 Stat. 1165.

GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

SEC. 632. The Secretary shall make grants to each State educational agency and may make grants to institutions of higher education to assist in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613.

(20 U.S.C. 1432) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 632, 84 Stat. 184; amended December 2, 1983, P.L. 98-199, sec. 11, 97 Stat. 1371; amended October 8, 1986, P.L. 99-457, sec. 309, 100 Stat. 1168.

CLEARINGHOUSES

SEC. 633. (a) The Secretary is authorized to make a grant to or enter into a contract with a public agency or a nonprofit private organization or institution for a national clearinghouse on the education of the handicapped and to make grants or contracts with a public agency or a nonprofit private organization or institution for other support projects which may be deemed necessary by the Secretary to disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties concerning—

(1) programs relating to the education of the handicapped under this Act and and under other Federal laws, and

(2) participation in such programs, including referral of individuals to appropriate national, State, and local agencies and organizations for further assistance.

(b) In addition to the clearinghouse established under subsection (a), the Secretary shall make a grant or enter into a contract for a national clearinghouse on postsecondary education for handicapped individuals for the purpose of providing information on available services and programs in postsecondary education for the handicapped.

(c) The Secretary shall make a grant or enter into a contract for a national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of handicapped children and youth through the following:

(1) Collection and dissemination of information on current and future national, regional, and State needs for special education and related services personnel.

(2) Dissemination to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

(3) Identification of training programs available around the country.

(4) Establishment of a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

(5) Technical assistance to institutions seeking to meet State and professionally recognized standards.

(d)(1) In awarding the grants and contracts under this section, the Secretary shall give particular attention to any demonstrated experience at the national level relevant to performance of the functions established in the section, and ability to conduct such projects, communicate with the intended consumers of information, and maintain the necessary communication with other agencies and organizations.

(2) The Secretary is authorized to make contracts with profitmaking organizations under this section only when necessary for materials or media access.

(20 U.S.C. 1433) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 633, 84 Stat. 184; amended December 2, 1983, P.L. 98-199, sec. 11, 97 Stat. 1371; amended October 8, 1986, P.L. 99-457, sec. 310, 100 Stat. 1168.

REPORTS TO THE SECRETARY

SEC. 634. (a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this part during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) the number of individuals trained under the grant or contract, by category of training and level of training; and

(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training.

(b) A summary of the date required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

(20 U.S.C. 1434) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 634, 84 Stat. 185; amended December 2, 1983, P.L. 98-199, sec. 11, 97 Stat. 1372.

AUTHORIZATION OF APPROPRIATIONS

SEC. 635. (a) There are authorized to be appropriated to carry out this part (other than section 633) $70,400,000 for fiscal year 1987, $74,500,000 for fiscal year 1988, and $79,000,000 for fiscal year 1989. There are authorized to be appropriated to carry out section 633, $1,200,000 for fiscal year 1987, $1,900,000 for fiscal year 1988, and $2,000,000 for fiscal year 1989.

(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in subparagraphs (A) through (E) of section 631(a)(1).

(c) Of the funds appropriated under subsection (a) for any fiscal year, the Secretary shall reserve 10 percent for activities under section 631(c).

(20 U.S.C. 1435) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 635, 84 Stat. 185; amended December 2, 1983, P.L. 98-199, sec. 11, 97 Stat. 1372; amended October 8, 1986, P.L. 99-457, sec. 311, 100 Stat. 1169.

PART E—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations for research and related activities to assist special education personnel, related services personnel, early intervention personnel, and other appropriate persons, including parents, in improving the special education and related services and early intervention services for handicapped infants, toddlers, children, and youth, and to conduct research, surveys, or demonstrations relating to the provision of services to handicapped infants, toddlers, children, and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions, and teaching, learning, and education-related developmental practices and services for handicapped infants, toddlers, children and youth. Research and related activities assisted under this section shall include the following:

(1) The development of new and improved techniques and devices for teaching handicapped infants, toddlers, children and youth.

(2) The development of curricula which meet the unique educational and developmental needs of handicapped infants, toddlers, children and youth.

(3) The application of new technologies and knowledge for the purpose of improving the instruction of handicapped infants, toddlers, children and youth.

(4) The development of program models and exemplary practices in areas of special education and early intervention.

(5) The dissemination of information on research and related activities conducted under this part to regional resource centers and interested individuals and organizations.

(6) The development of instruments, including tests, inventories, and scales for measuring progress of handicapped infants, toddlers, children and youth across a number of developmental domains.

(b) In carrying out subsection (a), the Secretary shall consider the special education or early intervention experience of applicants under such subsection.

(c) The Secretary shall publish proposed research priorities in the Federal Register every 2 years, not later than July 1, and shall allow a period of 60 days for public comments and suggestions. After analyzing and considering the public comments, the Secretary shall publish final research priorities in the Federal Register not later than 30 days after the close of the comment period.

(d) The Secretary shall provide an index (including the title of each research project and the name and address of the researching organization) of all research projects conducted in the prior fiscal year in the annual report described under section 618. The Secretary shall make reports of research projects available to the education community at large and to other interested parties.

(e) The Secretary shall coordinate the research priorities established under subsection (c) with research priorities established by the National Institute of Handicapped Research and shall provide information concerning research priorities established under such subsection to the National Council on the Handicapped and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

(20 U.S.C. 1441) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 641, 84 Stat. 185; amended June 17, 1977, P.L. 95-49, sec. 4, 91 Stat. 230; amended December 2, 1983, P.L. 98-199, sec. 12, 97 Stat. 1372; amended October 8, 1986, P.L. 99-457, sec. 312, 100 Stat. 1169.

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR HANDICAPPED CHILDREN

SEC. 642. The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children.

(20 U.S.C. 1442) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 642, 84 Stat. 185; amended December 2, 1983, P.L. 98-199, sec. 12, 97 Stat. 1373.

PANELS OF EXPERTS

Sec. 643. (a) The Secretary shall convene, in accordance with subsection (b), panels of experts who are competent to evaluate proposals for projects under parts C through G. The panels shall be composed of—

(1) individuals from the field of special education for the handicapped and other relevant disciplines who have significant expertise and experience in the content areas and age levels addressed in the proposals, and

(2) handicapped individuals and parents of handicapped individuals when appropriate.

(b)(1) The Secretary shall convene panels under subsection (a) for any application which includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications which include funding requests that are less than such amount.

(2) Such panels shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department and shall be provided consultant fees at such a rate.

(c) The Secretary may use funds available under parts C through G to pay expenses and fees of non-Federal members under subsection (b).

(20 U.S.C. 1443) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 643, 84 Stat. 185; amended December 2, 1983, P.L. 98-199, sec. 12, 97 Stat. 1373; amended October 8, 1986, P.L. 99-457, sec. 313, 100 Stat. 1170.

AUTHORIZATION OF APPROPRIATIONS

Sec. 644. For purposes of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1987, $19,000,000 for fiscal year 1988, and $20,100,000 for fiscal year 1989.

(20 U.S.C. 1444) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 644, 84 Stat. 186; amended August 21, 1974, P.L. 93-380, sec. 619, 88 Stat. 585; amended June 17, 1977, P.L. 95-49, sec. 5, 91 Stat. 231; amended December 2, 1983, P.L. 98-199, sec. 12, 97 Stat. 1374; amended October 8, 1986, P.L. 99-457, sec. 314, 100 Stat. 1171.

Part F—Instructional Media for the Handicapped

PURPOSE

Sec. 651. (a) The purposes of this part are to promote—

(1) the general welfare of deaf persons by (A) bringing to such persons understanding and appreciation of those films

which play such an important part in the general and cultural advancement of hearing persons, (B) providing through these films enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (C) providing a wholesome and rewarding experience which deaf persons may share together; and

(2) the educational advancement of handicapped persons by (A) carrying on research in the use of educational media for the handicapped, (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media for the instruction of the handicapped.

(20 U.S.C. 1451) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 651, 84 Stat. 186.

CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED PERSONS

SEC. 652. (a) The Secretary shall establish a loan service of captioned films and educational media for the purpose of making such materials available, in accordance with regulations, in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of the handicapped, including for the purpose of addressing problems of illiteracy among the handicapped.

(b) The Secretary is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary to the administration of this part;

(3) provide, by grant or contract, for the captioning of films;

(4) provide, by grant or contract, for the distribution of captioned films and other educational media and equipment through State schools for the handicapped, public libraries, and such other agencies as the Secretary may deem appropriate to serve as local or regional centers for such distribution;

(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for the handicapped, for the production and distribution of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media, including the payment to those persons of such stipends (including allowances for travel and other expenses of such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies; and[1]

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations; and

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[1] So in original.

(8) provide by grant or contract for educational media and materials for the deaf.

(c) The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. for the purpose of providing theatrical experiences to—

(1) enrich the lives of deaf children and adults,

(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf people, and

(3) promote the integration of hearing and deaf people through shared cultural experiences.

(20 U.S.C. 1452) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 652, 84 Stat. 186; amended August 21, 1974, P.L. 93-380, sec. 620, 88 Stat. 685; amended October 12, 1976, P.L. 94-482, Title V, Part A, sec. 501(h), 90 Stat. 2237; amended October 8, 1986, P.L. 99-457, sec. 315, 100 Stat. 1171.

AUTHORIZATION

SEC. 653. For the purposes of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1987, $15,750,000 for fiscal year 1988, and $16,540,000 for fiscal year 1989.

(20 U.S.C. 1454) Enacted April 13, 1970, P.L. 91-230, Title VI, sec. 654, 84 Stat. 187; amended August 21, 1974, P.L. 93-380, sec. 620(2), 88 Stat. 585; amended June 17, 1977, P.L. 95-49, sec. 6, 91 Stat. 231; amended December 2, 1983, P.L. 98-199, sec. 13, 97 Stat. 1374; amended October 8, 1986, P.L. 99-457, sec. 316, 100 Stat. 1171.

PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED

FINANCIAL ASSISTANCE

SEC. 661. The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of handicapped students and the provision of early intervention to handicapped infants and toddlers. In carrying out this subsection, the Secretary may fund projects or centers for the purposes of—

(1) determining how technology, media, and materials are being used in the education of the handicapped and how they can be used more effectively,

(2) designing and adapting new technology, media, and materials to improve the education of handicapped students,

(3) assisting the public and private sectors in the development and marketing of new technology, media, and materials for the education of the handicapped, and

(4) disseminating information on the availability and use of new technology, media, and materials for the education of the handicapped.

(20 U.S.C. 1461) Enacted October 8, 1986, P.L. 99-457, sec. 317, 100 Stat. 1171.

AUTHORIZATION OF APPROPRIATIONS

SEC. 662. For the purposes of carrying out this part, there are authorized to be appropriated $10,000,000 for fiscal year 1987, $10,500,000 for fiscal year 1988, and $11,025,000 for fiscal year 1989.

(20 U.S.C. 1462) Enacted October 8, 1986, P.L. 99-457, sec. 317, 100 Stat. 1171.

PART H—HANDICAPPED INFANTS AND TODDLERS

FINDINGS AND POLICY

SEC. 671. (a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of handicapped infants and toddlers and to minimize their potential for developmental delay,

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after handicapped infants and toddlers reach school age,

(3) to minimize the likelihood of institutionalization of handicapped individuals and maximize the potential for their independent living in society, and

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps.

(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for handicapped infants and toddlers and their families,

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

(3) to enhance its capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to handicapped infants, toddlers, and their families.

(20 U.S.C. 1471) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1145.

DEFINITIONS

SEC. 672. As used in this part—

(1) The term "handicapped infants and toddlers" means individuals from birth to age 2, inclusive, who need early intervention services because they—

(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: Cognitive development, physical development, language and speech development, psychosocial development, or self-help skills, or

(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay.

Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

(2) "Early intervention services" are developmental services which—

(A) are provided under public supervision,

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

(C) are designed to meet a handicapped infant's or toddler's developmental needs in any one or more of the following areas:

(i) physical development,
(ii) cognitive development,
(iii) language and speech development,
(iv) psycho-social development, or
(v) self-help skills,

(D) meet the standards of the State, including the requirements of this part,

(E) include—

(i) family training, counseling, and home visits,
(ii) special instruction,
(iii) speech pathology and audiology,
(iv) occupational therapy,
(v) physical therapy,
(vi) psychological services,
(vii) case management services,
(viii) medical services only for diagnostic or evaluation purposes,
(ix) early identification, screening, and assessment services, and
(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

(F) are provided by qualified personnel, including—

(i) special educators,
(ii) speech and language pathologists and audiologists,
(iii) occupational therapists,
(iv) physical therapists,
(v) psychologists,
(vi) social workers,
(vii) nurses, and
(viii) nutritionists, and

(G) are provided in conformity with an individualized family service plan adopted in accordance with section 677.

(3) The term "developmental delay" has the meaning given such term by a State under section 676(b)(1).

(4) The term "Council" means the State Interagency Coordinating Council established under section 682.

(20 U.S.C. 1472) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1146.

GENERAL AUTHORITY

Sec. 673. The Secretary shall, in accordance with this part, make grants to States (from their allocations under section 684) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families.

(20 U.S.C. 1473) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1147.

GENERAL ELIGIBILITY

SEC. 674. In order to be eligible for a grant under section 673 for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 678) that the State has established a State Interagency Coordinating Council which meets the requirements of section 682.

(20 U.S.C. 1474) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1147.

CONTINUING ELIGIBILITY

SEC. 675. (a) FIRST TWO YEARS.—In order to be eligible for a grant under section 673 for the first or second year of a State's participation under this part, a State shall include in its application under section 678 for that year assurances that funds received under section 673 shall be used to assist the State to plan, develop, and implement the statewide system required by section 676.

(b) THIRD AND FOURTH YEAR.—(1) In order to be eligible for a grant under section 673 for the third or fourth year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that—

(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 676 or obtained a waiver from the Secretary under paragraph (2),

(B) funds shall be used to plan, develop, and implement the statewide system required by section 676, and

(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 673, except that with respect to section 676(b)(4), a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 673 during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

(A) that the State has made a good faith effort to adopt such a policy,

(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

(c) FIFTH AND SUCCEEDING YEARS.—In order to be eligible for a grant under section 673 for a fifth and any succeeding year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that the

State has in effect the statewide system required by section 676 and a description of services to be provided under section 676(b)(2).

(d) EXCEPTION.—Notwithstanding subsections (a) and (b), a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to handicapped children from birth through age 2, inclusive, shall be eligible for a grant under section 673 for the first through fourth years of a State's participation under this part.

(20 U.S.C. 1475) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1147.

REQUIREMENTS FOR STATEWIDE SYSTEM

SEC. 676. (a) IN GENERAL.—A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all handicapped infants and toddlers and their families shall include the minimum components under subsection (b).

(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

(1) a definition of the term "developmentally delayed" that will be used by the State in carrying out programs under this part,

(2) timetables for ensuring that appropriate early intervention services will be available to all handicapped infants and toddlers in the State before the beginning of the fifth year of a State's participation under this part,

(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each handicapped infant and toddler in the State and the needs of the families to appropriately assist in the development of the handicapped infant or toddler,

(4) for each handicapped infant and toddler in the State, an individualized family service plan in accordance with section 677, including case management services in accordance with such service plan,

(5) a comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for the participation by primary referral sources,

(6) a public awareness program focusing on early identification of handicapped infants and toddlers,

(7) a central directory which includes early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State,

(8) a comprehensive system of personnel development,

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 673 to ensure compliance with this part,

(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

(C) the assignment of financial responsibility to the appropriate agency,

(D) the development of procedures to ensure that services are provided to handicapped infants and toddlers and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

(E) the resolution of intra- and interagency disputes, and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements,

(11) a procedure for securing timely reimbursement of funds used under this part in accordance with section 681(a),

(12) procedural safeguards with respect to programs under this part as required by section 680, and

(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

(14) a system for compiling data on the numbers of handicapped infants and toddlers and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

(20 U.S.C. 1476) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1148.

INDIVIDUALIZED FAMILY SERVICE PLAN

Sec. 677. (a) Assessment and Program Development.—Each handicapped infant or toddler and the infant or toddler's family shall receive—

(1) a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and

(2) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

(b) Periodic Review.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6 month-intervals (or more often where appropriate based on infant and toddler and family needs).

(c) **Promptness After Assessment.**—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

(d) **Content of Plan.**—The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, language and speech development, psycho-social development, and self-help skills, based on acceptable objective criteria,

(2) a statement of the family's strengths and needs relating to enhancing the development of the family's handicapped infant or toddler,

(3) a statement of the major outcomes expected to be achieved for the infant and toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes are being made and whether modifications or revisions of the outcomes or services are necessary,

(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

(5) the projected dates for initiation of services and the anticipated duration of such services,

(6) the name of the case manager from the profession most immediately relevant to the infant's and toddler's or family's needs who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

(7) the steps to be taken supporting the transition of the handicapped toddler to services provided under part B to the extent such services are considered appropriate.

(20 U.S.C. 1477) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1149.

STATE APPLICATION AND ASSURANCES

Sec. 678. (a) **Application.**—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 673,

(2) information demonstrating eligibility of the State under section 674,

(3) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675, and

(4)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

(5) a description of the uses for which funds will be expended in accordance with this part and for the fifth and succeeding fiscal years a description of the services to be provided,

(6) a description of the procedure used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State, and

(7) such other information and assurances as the Secretary may reasonably require by regulation.

(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

(1) assure that funds paid to the State under section 673 will be expended in accordance with this part,

(2) contain assurances that the State will comply with the requirements of section 681,

(3) provide satisfactory assurance that the control of funds provided under section 673, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property,

(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part,

(5) provide satisfactory assurance that Federal funds made available under section 673 (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for handicapped infants and toddlers and their families and in no case to supplant such State and local funds,

(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State, and

(7) such other information and assurances as the Secretary may reasonably require by regulation.

(c) APPROVAL OF APPLICATION AND ASSURANCES REQUIRED.—No State may receive a grant under section 673 unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

(20 U.S.C. 1478) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1150.

USES OF FUNDS

Sec. 679. In addition to using funds provided under section 673 to plan, develop, and implement the statewide system required by section 676, a State may use such funds—

(1) for direct services for handicapped infants and toddlers that are not otherwise provided from other public or private sources, and

(2) to expand and improve on services for handicapped infants and toddlers that are otherwise available.

(20 U.S.C. 1479) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1151.

PROCEDURAL SAFEGUARDS

Sec. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information.

(3) The opportunity for parents and a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(4) Procedures to protect the rights of the handicapped infant and toddlers whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

(5) Written prior notice to the parents or guardian of the handicapped infant or toddler whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the handicapped infant or toddler.

(6) Procedures designed to assure that the notice required by paragraph (5) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(7) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive

the appropriate early intervention services currently being provided or if applying for initial services shall receive the services not in dispute.

(20 U.S.C. 1480) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1152.

PAYOR OF LAST RESORT

SEC. 681. (a) NONSUBSTITUTION.—Funds provided under section 673 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this part, except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 673 may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

(b) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for handicapped infants and toddlers) within the State.

(20 U.S.C. 1481) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1152.

STATE INTERAGENCY COORDINATING COUNCIL

SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of 15 members.

(2) The Council and the chairperson of the Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(b) COMPOSITION.—The Council shall be composed of—

(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

(2) at least 3 public or private providers of early intervention services,

(3) at least one representative from the State legislature,

(4) at least one person involved in personnel preparation, and

(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families and others selected by the Governor.

(c) MEETINGS.—The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part to hire staff, and obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

(e) FUNCTIONS OF COUNCIL.—The Council shall—

(1) advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

(2) advise and assist the lead agency in the preparation of applications and amendments thereto, and

(3) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for handicapped infants and toddlers and their families operated within the State.

(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 673, such State shall establish a council that complies in full with this section.

(20 U.S.C. 1482) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1153.

FEDERAL ADMINISTRATION

SEC. 683. Sections 616, 617, and 620 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 676(b)(9),

(2) any reference to the education of handicapped children and the education of all handicapped children and the provision of free public education to all handicapped children shall be deemed to be a reference to the provision of services to handicapped infants and toddlers in accordance with this part, and

(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this part.

(20 U.S.C. 1483) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1154.

ALLOCATION OF FUNDS

SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(b)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to handicapped infants and toddlers and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 678 and which is approved by the Secretary. Section 616 shall apply to any such application.

(c)(1) For each of the fiscal years 1987 through 1991 from the funds remaining after the reservation and payments under subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder.

(2) For the purpose of paragraph (1)—

(A) the terms "infants" and "toddlers" mean children from birth to age 2, inclusive, and

(B) the term "State" does not include the jurisdictions described in subsection (a).

(d) If any State elects not to receive its allotment under subsection (c)(1), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

(20 U.S.C. 1484) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1154.

AUTHORIZATION OF APPROPRIATIONS

SEC. 685. There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.

(20 U.S.C. 1485) Enacted October 8, 1986, P.L. 99-457, sec. 101(a), 100 Stat. 1155.

Education of the Deaf Act of 1986

AN ACT To authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education of the Deaf Act of 1986".

TITLE I—GALLAUDET UNIVERSITY

Part A—Gallaudet University General Authority

SEC. 101. CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY.

(a) Gallaudet University.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

(b) Purpose.—The purpose of Gallaudet University shall be to provide education and training to deaf individuals and otherwise to further the education of the deaf.

SEC. 102. PROPERTY RIGHTS.

(a) Property Rights Described.—Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) Disposal of Real Property.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

SEC. 103. BOARD OF TRUSTEES.

(a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees, who on the effective date of this Act shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board

deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 403, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

PART B—KENDALL DEMONSTRATION ELEMENTARY SCHOOL

SEC. 111. AUTHORITY OF GALLAUDET UNIVERSITY.

(a) GENERAL AUTHORITY.—

(1) For the purpose of providing day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized to maintain and operate Kendall Demonstration Elementary School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

(2) The Kendall Demonstration Elementary School shall also—

(A) provide technical assistance and outreach throughout the Nation to train parents of deaf infants and children in specialized learning skills; and

(B) develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with nonhearing impaired students.

(b) RESPONSIBILITY FOR COMPLIANCE WITH EDUCATION OF THE HANDICAPPED ACT.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the Kendall Demonstration Elementary School, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

PART C—MODEL SECONDARY SCHOOL FOR THE DEAF

SEC. 121. AUTHORITY OF GALLAUDET UNIVERSITY.

(a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for secondary education for individuals who are deaf in order to prepare them for college and other advanced study, and to provide an exemplary secondary school program to stimulate the development of similarly excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 122, to maintain and operate a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) Responsibility for Compliance with Education of the Handicapped Act.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the model secondary school, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

SEC. 122. AGREEMENT WITH GALLAUDET UNIVERSITY FOR THE MODEL SECONDARY SCHOOL.

(a) General Authority.—The Secretary is authorized to continue an agreement with Gallaudet University for the establishment and operation, including construction and equipment of a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) Provisions of Agreement.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the model secondary school will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the University will make an annual report to the Secretary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to excellence of architecture and design, works of art, and innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that the model secondary school will develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with nonhearing impaired students;

(5) include such other conditions as the Secretary considers necessary to carry out the purposes of this part; and

(6) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the model secondary school will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) Submission of Report.—The Secretary shall submit the annual report of the University (required under subsection (b)(3)) to the Congress with such comments and recommendations as the Secretary may deem appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

SEC. 201. AUTHORITY.

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this title is authorized to operate and maintain a National Technical Institute for the Deaf.

SEC. 202. AGREEMENT FOR THE INSTITUTE.

(a) General Authority.—The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(b) Provisions of Agreement.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of the deaf, and members of the public familiar with the need for services provided by the Institute;

(3) provide that the Board of Trustees or other governing body of the institution will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a-5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph,

the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) Limitation.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

SEC. 301. COMMISSION ESTABLISHED.

(a) Establishment.—There is established a Commission on Education of the Deaf to make a study of the quality of infant and early childhood education programs and of elementary, secondary, postsecondary, adult, and continuing education furnished to deaf individuals.

(b) Composition.—(1) The Commission shall be composed of 12 members as follows:

(A) Three members shall be appointed by the President.

(B) One member shall be appointed by the Comptroller General of the United States.

(C) Four of the members shall be appointed by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives.

(D) Four of the members shall be appointed by the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(2)(A) Members of the Commission shall be appointed from among individuals who have broad experience and expertise in deafness, program evaluation, education, or rehabilitation, which experience and expertise are directly relevant to the issues to be studied by the Commission.

(B) The Chairperson shall be appointed jointly by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives, and the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(3) Members of the Commission may not be employed by or be a consultant to the National Technical Institute for the Deaf or Gallaudet University during their appointment as members of the

Commission and may not have been so employed for a period of one year prior to appointment.

(4) Of the members appointed by the President under paragraph (1)(A), not less than 1 shall be deaf. Of the members appointed by the Speaker of the House of Representatives under paragraph (1)(C), not less than 2 shall be deaf and not more than 2 may be from the same political party. Of the members appointed by the President pro tempore of the Senate under paragraph (1)(D), not less than 2 shall be deaf and not more than 2 may be from the same political party.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

SEC. 302. DUTIES OF THE COMMISSION.

(a) STUDY DESCRIBED.—(1) The Commission shall make a study of—

(A) the degree to which appropriate postsecondary, adult, and continuing educational opportunities are available to deaf individuals;

(B) the advisability of expanding the number of federally supported postsecondary regional educational programs which serve the deaf;

(C) the training and technical assistance needs of infant and early childhood education programs and elementary, secondary, postsecondary, adult, and continuing education programs which serve the deaf;

(D) the degree to which appropriate elementary and secondary educational opportunities are available to deaf students including (i) the effects of part B of the Education of the Handicapped Act on infant and early childhood education programs and elementary and secondary educational programs for the deaf and (ii) the role played by the model secondary school for the deaf and the Kendall Demonstration Elementary School;

(E) the role and impact of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute for the Deaf in education of the deaf;

(F) the degree to which the purposes of part F of the Education of the Handicapped Act (relating to instructional media for the handicapped) are being carried out;

(G) the problems associated with illiteracy among deaf individuals;

(H) any other issues which the Commission determines will improve the quality of infant and early education programs and elementary, secondary, postsecondary, adult, and continuing education provided to the deaf; and

(I) any other recommendations to improve quality or increase cost effectiveness of providing the education of the deaf.

(2) The study of each issue described in paragraph (1) shall include a description of the findings concerning each such issue together with recommendations for actions designed to address identified needs.

(b) Reports.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than 18 months after the date of enactment of this Act, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

(c) Termination.—The Commission shall cease to exist 90 days following the submission of its final report.

SEC. 303. ADMINISTRATIVE PROVISIONS.

(a) Personnel.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) Hearings; Quorum.—(1) The Commission or, with the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

(c) Consultation.—In carrying out its duties under this Act, the Commission shall consult with Gallaudet University, the National Technical Institute for the Deaf, regional postsecondary education programs for the deaf, other programs and agencies serving or representing the interests of deaf people, Federal agencies, representatives of State and local governments, State and local educational agencies, and private organizations to the extent feasible.

(d) Information; Statistics.—(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office), information, suggestions, estimates, and statistics to carry out the provisions of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson.

(2) For the purpose of securing necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies.

(e) Agency Cooperation.—(1) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this title.

(2) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

SEC. 304. COMPENSATION OF MEMBERS.

(a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

As used in this Act—

(1) The term "Board of Trustees" means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 103.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "Institute" means the National Technical Institute for the Deaf.

(5) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree, (D) includes one or more professional or graduate schools, (E) is a public or nonprofit private institution, and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of clause (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary deter-

mines to be reliable authority as to the quality of training offered.

(6) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(7) The term "Secretary" means the Secretary of Education.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 402. GIFTS.

(a) Gallaudet University.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(b) National Technical Institute for the Deaf.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

SEC. 403. AUDIT.

(a) General Accounting Office Authority.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) Independent Audit.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of the Institute, respectively.

SEC. 404. REPORTS.

(a) Gallaudet University.—Not later than October 15 of each year, the Board of Trustees of Gallaudet University shall prepare and submit an annual report to the Secretary on the condition of the University, including—

(1) the number of students of each description received and discharged during the preceding school year and the number remaining;

(2) the branches and type of training and education taught and progress made therein;

(3) a statement showing the receipts of said corporation and from what sources; and

(4) its expenditures and for what objects.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 202 shall prepare and transmit to the Secretary a report on the activities of the Institute, pursuant to the agreement under section 202(b)(3).

(c) MONITORING AND EVALUATION REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to section 405, together with such recommendations, including recommendations for legislation, as the Secretary deems necessary.

SEC. 405. MONITORING AND EVALUATION ACTIVITIES.

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

SEC. 406. LIAISON FOR EDUCATIONAL PROGRAMS FOR THE DEAF.

(a) DESIGNATION OF LIAISON.—Not later than 30 days after the date of enactment of this Act, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of the deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for the deaf under the Education of the Handicapped Act and the Rehabilitation Act of 1973.

(b) DUTIES OF LIAISON.—The individual serving as liaison for educational programs for the deaf shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions; and

(2) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) AUTHORITY OF SECRETARY.—Nothing in this section may be construed to affect the authority of the Secretary under this Act or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

SEC. 407. GALLAUDET UNIVERSITY FEDERAL ENDOWMENT PROGRAM.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of Gallaudet University. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the University).

(c) Investments.—

(1) The University, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

(d) Withdrawals and Expenditures.—

(1) For a twenty-year period from the date of the enactment of this Act, the University may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) Gallaudet University may withdraw or expend endowment fund income for any expenses necessary to the operation of the University, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The University may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the University may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstance affecting the University.

(e) Recovery of Payments.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if Gallaudet University—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) Definitions.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by Gallaudet University for the purpose of generating income for the support of the University.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

SEC. 408. NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ENDOWMENT PROGRAM.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of the National Technical Institute for the Deaf are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of the National Technical Institute for the Deaf. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the Institute).

(c) INVESTMENTS.—

(1) The Institute, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) For a twenty-year period from the date of the enactment of this Act, the Institute may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) The National Technical Institute for the Deaf may withdraw or expend endowment fund income for any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The Institute may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the Institute may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstances affecting the Institute.

(e) Recovery of Payments.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the National Technical Institute for the Deaf—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) Definitions.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by the National Technical Institute for the Deaf for the purpose of generating income for the support of the Institute.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

SEC. 409. OVERSIGHT AND EFFECT OF AGREEMENTS.

(a) Oversight Activities.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) CONSTRUCTION OF AGREEMENTS.—The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with the provisions of this Act.

SEC. 410. REPEALS.

(a) GALLAUDET COLLEGE.—The Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is repealed.

(b) KENDALL DEMONSTRATION ELEMENTARY SCHOOL.—The Act entitled "An Act to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed.

(c) MODEL SECONDARY SCHOOL FOR THE DEAF.—The Model Secondary School for the Deaf Act is repealed.

(d) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf Act is repealed.

SEC. 411. AUTHORIZATION OF APPROPRIATIONS.

(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of this Act, relating to—

(A) Gallaudet University,

(B) part B of title I, relating to Kendall Demonstration Elementary School, and

(C) part C of title I, relating to the model secondary school for the deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of title II, relating to the National Technical Institute for the Deaf.

(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of title III, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs.

(20 U.S.C. 4301) Enacted Aug. 4, 1986, P.L. 99-371, 100 Stat. 781.

Developmentally Disabled Assistance and Bill of Rights Act

(Public Law 94-103)

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TITLE II—ESTABLISHMENT AND PROTECTION OF THE RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES

* * * * * * *

STUDIES AND RECOMMENDATIONS

SEC. 204. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct or arrange for the conduct of the following:

(1) A review and evaluation of the standards and quality assurance mechanisms applicable to residential facilities and community agencies under the Rehabilitation Act of 1973, titles I and VI of the Elementary and Secondary Education Act of 1965, title XVIII, XIX, and XX of the Social Security Act, and any other Federal law administered by the Secretary. Such standards and mechanisms shall be reviewed and evaluated (A) for their effectiveness in assuring the rights, described in section 111 of the Act, of persons with developmental disabilities, (B) for their effectiveness in insuring that services rendered by such facilities and agencies to persons with developmental disabilities are consistent with current concepts of quality care concerning treatment, services, and habilitation of such persons, (C) for conflicting requirements, and (D) for the relative effectiveness of their enforcement and the degree and extent of their effectiveness.

(2) The development of recommendations for standards and quality assurance mechanisms (including enforcement mechanisms) for residential facilities and community agencies providing treatment, services, or habilitation for persons with developmental disabilities which standards and mechanisms will assure the rights stated in section 111 of the Act. Such recommendations shall be based upon performance criteria for measuring and evaluating the developmental progress of persons with developmental disabilities which criteria are consistent with criteria used in the evaluation system developed under section 110 of the Act.

(3) The development of recommendations for changes in Federal law and regulations administered by the Secretary after taking into account the review and evaluation under paragraph (1) and the recommended standards or mechanisms developed under paragraph (2).

(b)(1) The Secretary may in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, obtain (through grants or contracts) the assistance of public and private entities in carrying out subsection (a).

(2) In carrying out subsection (a), the Secretary shall consult with appropriate public and private entities and individuals for the purpose of receiving their expert assistance, advice, and recommenda-

tions. Such agencies and individuals shall include persons with developmental disabilities, representative of such individuals, the appropriate councils of the Joint Commission on Accreditation of Hospitals, providers of health care, and State agencies. Persons to be consulted shall include the following officers of the Department of Health, Education, and Welfare: The Commissioner of the Medical Services Administration, the Commissioner of the Rehabilitation Services Administration, the Deputy Commissioner of the Bureau of Education for the Handicapped, the Assistant Secretary for Human Development, the Commissioner of the Community Services Administration, and the Commissioner of the Social Security Administration.

(c) The Secretary shall within eighteen months after the date of enactment of this Act complete the review and evaluation and development of recommendations prescribed by subsection (a) and shall make a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on such review and evaluation and recommendations.

(42 U.S.C. 6010, note) Enacted October 4, 1975, P.L. 94-103, sec. 204, 89 Stat. 504, 505.

PART III—INDIAN EDUCATION PROGRAMS

Indian Education Act

SHORT TITLE

SEC. 401. This title may be cited as the "Indian Education Act".

(20 U.S.C. 241aa note) Enacted June 23, 1972, P.L. 92-318, sec. 401, 86 Stat. 334.

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 301. [to 307]

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(NOTE.—These provisions are contained in Title III, Public Law 874 at p. 140.)

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PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

AMENDMENT TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 421. (a) * * *

(NOTE.—These provisions are contained as sec. 1005 in Title X of the ESEA at p. 110.)

(b)(1)[1] * * *

(2) For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 and part B of title VI of Public Law 91-230, the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles.

(20 U.S.C. 1411 note) Enacted June 23, 1972, P.L. 92-318, sec. 421(b)(2), 86 Stat. 341.

SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

SEC. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

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[1] This provision has expired and has thus been omitted.

(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the succeeding fiscal years ending prior to October 1, 1986 to carry out the provisions of this section. There is also authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.

(20 U.S.C. 3385a) Enacted August 21, 1974, P.L. 93-380, sec. 632(c), 88 Stat. 586; amended Nov. 1 1978, P.L. 95-561, sec. 1141(c)(1), 1152(a) 92 Stat. 2329, 2333; amended Oct. 19, 1984, P.L. 98-511, sec. 513(b), 98 Stat. 2400.

FELLOWSHIPS FOR INDIAN STUDENTS

SEC. 423. (a) During the fiscal year ending June 30, 1975, and each of the succeeding fiscal years ending prior to October 1, 1989, the Commissioner is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than four,[1] academic years leading toward a postbaccalaureate degree in medicine, clinical psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields. The Commissioner may, if a fellowship is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

(d) The amount that is authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, 1989, is the amount appropriated for such purpose for fiscal year 1986.

(e) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(20 U.S.C. 3385b) Enacted August 21, 1974, P.L. 93-380, sec. 632(c), 88 Stat. 586, 587; amended Nov. 1, 1978, P.L. 95-561, sec. 2241(c)(2), 1152(b) 92 Stat. 2329, 2333;

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[1] Comma appeared in law.

amended Oct. 19, 1984, P.L. 98-511, sec. 513(b), 98 Stat. 2400; amended Oct. 27, 1986, P.L. 99-570, sec. 4133(b)(2).

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 431.

(NOTE.—These provisions are contained in section 315 of the Adult Education Act at p. 315.)

PART D—OFFICE OF INDIAN EDUCATION

OFFICE OF INDIAN EDUCATION

SEC. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the Elementary and Secondary Education Amendments of 1966, as added by this Act. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(20 U.S.C. 1221f) Enacted June 23, 1972, P.L. 92-318, sec. 441, 86 Stat 343.

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1989.

(b) The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they

can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

(20 U.S.C. 1221g) Enacted June 23, 1972, P.L. 92-318, sec. 442, 86 Stat. 343, 344; amended August 21, 1974, P.L. 93-380, sec. 505(a)(2), 88 Stat. 562; amended August 21, 1974, P.L. 93-380, sec. 845(d), 88 Stat. 612; amended April 21, 1976, P.L. 94-273, sec. 3(11), 90 Stat. 376; P.L. 94-273, sec. 13(1), 90 Stat. 378.); amended Nov. 1, 1978, P.L. 95-561, sec. 1141(c)(3), 92 Stat. 2329; amended Oct. 19, 1984, P.L. 98-511, sec. 513(b), 98 Stat. 2400.

PART E—MISCELLANEOUS PROVISIONS

AMENDMENT TO TITLE V OF HIGHER EDUCATION ACT OF 1965

SEC. 451. (This section is an amendment to Part D Title V of the HEA of 1965. Effective September 30, 1976, Part D of Title V is repealed by P.L. 94-482).

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 452. (This section is an amendment to Title VII of the ESEA of 1965 (sec. 722) and is included at p. 91).

DEFINITION

SEC. 453. (a) For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian".

(b) The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

(1) an identification of the total number of Indian children being served under this title;

(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

(3) an evaluation of the consequences of eliminating descedants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.

(c) On the form establishing a child's eligibility form:

(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such

tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership, membership roles of any of the applicant's parents or grandparents, from whom, the applicant claims eligibility;

(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

(3) the name and address of the parent or legal guardian;

(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(5) any other information which the Secretary deems necessary to provide an accurate program profile.

Nothing in the requirements of paragraphs (1) through (5) of this subsection shall be construed as changing or restricting the applicable eligibility definition set forth in subsection (a) of this section.

(20 U.S.C. 1221h) Enacted June 23, 1972, P.L. 92-318, sec. 453, 86 Stat. 345; amended Nov. 1, 1978, P.L. 95-561, secs. 1147, 1148, 1151, 92 Stat. 2330, 2331, 2333; amended Aug. 6, 1979, P.L. 96-46, sec. 7, 93 Stat. 343.

Indian Self-Determination and Education Assistance Act

(Public Law 93-638)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Self-Determination and Education Assistance Act".

(25 U.S.C. 450, note) Enacted January 4, 1975, P.L. 93-638, sec. 1, 88 Stat. 2203.

CONGRESSIONAL FINDINGS

SEC. 2. (a) The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, American Indian people, finds that—

(1) the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and

(2) the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons.

(b) The Congress further finds that—

(1) true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles;

(2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and

(3) parental and community control of the educational process is of crucial importance to the Indian people.

(25 U.S.C. 450) Enacted January 4, 1975, P.L. 93-638, sec. 2, 88 Stat. 2203.

DECLARATION OF POLICY

SEC. 3. (a) The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

(c) The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(25 U.S.C. 450a) Enacted January 4, 1975, P.L. 93-638, sec. 3, 88 Stat. 2203.

DEFINITIONS

SEC. 4. For the purposes of this Act, the term—

(a) "Indian" means a person who is a member of an Indian tribe;

(b) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(c) "Tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided,* That in any case where a contract is let or grant made to an organization to perform services benefitting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant;

(d) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(f) "State education agency" means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is not such officer or agency, an officer or agency designated by the Governor or by State law.

(25 U.S.C. 450b) Enacted, January 4, 1975, P.L. 93-638, sec. 4, 88 Stat. 2204.

REPORTING AND AUDIT REQUIREMENTS

SEC. 5. (a) Each recipient of Federal financial assistance from the Secretary of Interior or the Secretary of Health, Education, and Welfare, under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Comptroller General and the appropriate Secretary, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in the preceding subsection of this section, have access (for the purpose of audit and examination) to any books, documents, papers, and records of such recipients which in the opinion of the Comptroller General or the appropriate Secretary may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to in the preceding subsection.

(c) Each recipient of Federal financial assistance referred to in subsection (a) of this section shall make such reports and information available to the Indian people served or represented by such recipient as and in a manner determined to be adequate by the appropriate Secretary.

(d) Any funds paid to a financial assistance recipient referred to in subsection (a) of this section and not expended or used for the purposes for which paid shall be repaid to the Treasury of the United States.

(25 U.S.C. 450c) Enacted January 4, 1975, P.L. 93-638, sec. 5, 88 Stat. 2204.

PENALTIES

Sec. 6. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract, subcontract, grant, or subgrant pursuant to this Act or the Act of April 16, 1934 (48 Stat. 596), as amended, embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets, or property which are the subject of such grant, subgrant, contract, or subcontract, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(25 U.S.C. 450d) Enacted January 4, 1975, P.L. 93-638, sec. 6, 88 Stat. 2205.

WAGE AND LABOR STANDARDS

Sec. 7. (a) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with contracts or grants entered into pursuant to this Act, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended. With respect to construction, alteration, or repair work to which the Act of March 3, 1921 is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C. 276c)

(b) Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—

(1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77)

(25 U.S.C. 450e) Enacted January 4, 1975, P.L. 93-638, sec. 7, 88 Stat. 2205.

CARRYOVER OF FUNDS

SEC. 8. The provisions of any other laws to the contrary notwithstanding, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

(25 U.S.C. 13a) Enacted January 4, 1975, P.L. 93-638, sec. 7, 88 Stat. 2206.

SEC. 9. The provisions of this Act shall not be subject to the requirements of the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 92 Stat. 3): *Provided*, That a grant agreement or a cooperative agreement may be utilized in lieu of a contract under sections 102 and 103 of this Act when mutually agreed to by the appropriate Secretary and the tribal organization involved.

(25 U.S.C. 450e-1) Enacted April 3, 1984, P.L. 98-250, sec. 1, 98 Stat. 118.

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(NOTE.—Title I of P.L. 93-638, the Indian Self-Determination Act, is omitted from this compilation.)

Indian Education Assistance Act

SHORT TITLE

SEC. 201. This title may be cited as the "Indian Education Assistance Act".

(25 U.S.C. 455, note) Enacted January 4, 1975, P.L. 93-638, sec. 201, 88 Stat. 2213.

PART A—EDUCATION OF INDIANS IN PUBLIC SCHOOLS

SEC. 202. [Amendments to the Act of April 16, 1934].[1]

* * * * * * *

SEC. 203. After conferring with persons competent in the field of Indian education, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall prepare and submit to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives not later than October 1, 1975, a report which shall include:

(1) a comprehensive analysis of the Act of April 16, 1934 (48 Stat. 596), as amended including—

(A) factors determining the allocation of funds for the special or supplemental educational programs of Indian students and current operating expenditures;

(B) the relationship of the Act of April 16, 1934 (48 Stat. 596), as amended, to—

(i) title I of the Act of September 30, 1950 (64 Stat. 1100), as amended; and

(ii) the Act of April 11, 1965 (79 Stat. 27), as amended; and

(iii) title IV of the Act of June 23, 1972 (86 Stat. 235); and

(iv) the Act of September 23, 1950 (72 Stat. 548), as amended.

(2) a specific program to meet the special educational needs of Indian children who attend public schools. Such program shall include, but need not be limited to, the following:

(A) a plan for the equitable distribution of funds to meet the special or supplemental educational needs of Indian children and, where necessary, to provide general operating expenditures to schools and school districts educating Indian children; and

(B) an estimate of the cost of such program;

(3) detailed legislative recommendations to implement the program prepared pursuant to clause (2); and

(4) a specific program, together with detailed legislative recommendations, to assist the development and administration of Indian-controlled community colleges.

(25 U.S.C. 457, note) Enacted January 4, 1975, P.L. 93-638, Title II, sec. 203, 88 Stat. 2214.

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[1] The Act of April 16, 1934 is printed subsequently in this compilation.

PART B—SCHOOL CONSTRUCTION

SEC. 204. (a) The Secretary is authorized to enter into a contract or contracts with any State education agency or school district for the purpose of assisting such agency or district in the acquisition of sites for, or the construction, acquisition, or renovation of facilities (including all necessary equipment) in school districts on or adjacent to or in close proximity to any Indian reservation or other lands held in trust by the United States for Indians, if such facilities are necessary for the education of Indians residing on any such reservation or lands.

(b) The Secretary may expend not less than 75 per centum of such funds as are authorized and appropriated pursuant to this part B on those projects which meet the eligibility requirements under subsections (a) and (b) of section 14 of the Act of September 23, 1950 (72 Stat. 548), as amended. Such funds shall be allocated on the basis of existing funding priorities, if any, established by The United States Commissioner of Education under subsections (a) and (b) of section 14 of the Act of September 23, 1950, as amended. The United States Commissioner of Education is directed to submit to the Secretary, at the beginning of each fiscal year, commencing with the first full fiscal year after the date of enactment of this Act, a list of those projects eligible for funding under subsections (a) and (b) of section 14 of the Act of September 23, 1950, as amended.

(c) The Secretary may expend not more than 25 per centum of such funds as may be authorized and appropriated pursuant to this part B on any school eligible to receive funds under section 208 of this Act.

(d) Any contract entered into by the Secretary pursuant to this section shall contain provisions requiring the relevant State educational agency to—

(1) provide Indian students attending any such facilities constructed, acquired, or renovated, in whole or in part, from funds made available pursuant to this section with standards of education not less than those provided non-Indian students in the school district in which the facilities are situated; and

(2) meet, with respect to such facilities, the requirements of the State and local building codes, and other building standards set by the State educational agency or school district for other public school facilities under its jurisdiction or control or by the local government in the jurisdiction within which the facilities are situated.

(e) The Secretary shall consult with the entity designated pursuant to section 5 of the Act of April 16, 1934 (48 Stat. 596), as amended by this Act, and with the governing body of any Indian tribe or tribes the educational opportunity for the members of which will be significantly affected by any contract entered into pursuant to this section. Such consultation shall be advisory only, but shall occur prior to the entering into of any such contract. The foregoing provisions of this subsection shall not be applicable where the application for a contract pursuant to this section is submitted by an elected school board of which a majority of its members are Indians.

(f) Within ninety days following the expiration of the three year period following the date of the enactment of this Act, the Secretary shall evaluate the effectiveness of the program pursuant to this section and transmit a report of such evaluation to the Congress. Such report shall include—

(1) an analysis of construction costs and the impact on such costs of the provisions of subsection (f) of this section and the Act of March 3, 1921 (46 Stat. 1491), as amended;

(2) a description of the working relationship between the Department of the Interior and the Department of Health, Education, and Welfare including any memorandum of understanding in connection with the acquisition of data pursuant to subsection (b) of this section;

(3) projections of the Secretary of future construction needs of the public schools serving Indian children residing on or adjacent to Indian reservations;

(4) a description of the working relationship of the Department of the Interior with local or State educational agencies in connection with the contracting for construction, acquisition, or renovation of school facilities pursuant to this section; and

(5) the recommendations of the Secretary with respect to the transfer of the responsibility for administering subsections (a) and (b) of section 14 of the Act of September 23, 1950 (72 Stat. 548), as amended, from the Department of Health, Education, and Welfare to the Department of the Interior.

(g) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated the sum of $35,000,000 for the fiscal year ending June 30, 1974; $35,000,000 for each of the four succeeding fiscal years; and thereafter, such sums as may be necessary, all of such sums to remain available until expended.

(25 U.S.C. 458). Enacted January 4, 1975, P.L. 93-638, Title II, sec. 204, 88 Stat. 2214, 2215, 2216.

PART C—GENERAL PROVISIONS

SEC. 205. No funds from any grant or contract pursuant to this title shall be made available to any school district unless the Secretary is satisfied that the quality and standard of education, including facilities and auxiliary services, for Indian students enrolled in the schools of such district are at least equal to that provided all other students from resources, other than resources provided in this title, available to the local school district.

(25 U.S.C. 458a). Enacted January 4, 1975, P.L. 93-638, Title II, sec. 205, 88 Stat. 2216.

SEC. 206. No funds from any contract or grant pursuant to this title shall be made available by any Federal agency directly to other than public agencies and Indian tribes, institutions, and organizations: *Provided,* That school districts, State education agencies, and Indian tribes, institutions, and organizations assisted by this title may use funds provided herein to contract for necessary services with any appropriate individual, organization, or corporation.

(25 U.S.C. 458b). Enacted January 4, 1975, P.L. 93-638, Title II, sec. 206, 88 Stat. 2216.

Sec. 207. (a)(1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations with experiences in Indian education to consider and formulate appropriate rules and regulations to implement the provisions of this title.

(2) Within seven months from the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

(3) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this title.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to subsection (a) of this section: *Provided*, That prior to any revision or amendment to such rules or regulations the Secretary shall, to the extent practicable, consult with appropriate national and regional Indian organizations, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

(25 U.S.C. 458c) Enacted January 4, 1975, P.L. 93-638, Title II, sec. 207, 88 Stat. 2216.

Sec. 208. The Secretary is authorized and directed to provide funds, pursuant to this Act; the Act of April 16, 1934 (48 Stat. 596), as amended; or any other authority granted to him to any tribe or tribal organization which controls and manages any previously private school.

(25 U.S.C. 458d) Enacted January 4, 1975, P.L. 93-638, Title II, sec. 208, 88 Stat. 2216, 2217; amended Dec. 21, 1982, P.L. 97-375, sec. 108(d), 96 Stat. 1820.

Sec. 209. The assistance provided in this Act for the education of Indians in the public schools of any State is in addition and supplemental to assistance provided under title IV of the Act of June 23, 1972 (86 Stat. 235).

(25 U.S.C. 458e) Enacted January 4, 1975, P.L. 93-638, Title II, sec. 209, 88 Stat. 2217.

Act of November 2, 1921[1]

(P.L. 85, 67th Cong., popular name "Snyder Act")

AN ACT Authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States for the following purposes:

General support and civilization, including education.

For relief of distress and conservation of health.

For industrial assistance and advancement, and general administration of Indian property.

For extension, improvement, operation, and maintenance of existing terious drugs.

For the purpose of horse-drawn and motor-propelled passenger-carrying vehicles for official use.

And for general and incidental expenses in connection with the administration of Indian affairs.

Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an "institution of higher education" under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(25 U.S.C. 13) Enacted November 2, 1921, Public No. 85, 67th Congress, 1st Session, ch. 115, 42 Stat. 208; amended October 12, 1976, P.L. 94-482, Title IV, sec. 410, 90 Stat. 2233, 2234.

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[1] Section 8 of Public Law 93-638 (Enacted January 4, 1975) 88 Stat., 2206, provides as follows: "The provisions of any other laws to the contrary notwithstanding, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year."

Act of April 16, 1934

(P.L. 167, 73rd Cong., popular name "Johnson-O'Malley Act")

AN ACT Authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and hereby is, authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.

(25 U.S.C. 452) Enacted April 16, 1934, ch. 147, sec. 1, 48 Stat. 596; amended June 4, 1936, ch. 490, 49 Stat. 1458, 1459.

SEC. 2. That the Secretary of the Interior, in making any contract herein authorized, may permit such contracting party to utilize, for the purposes of this Act, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

(25 U.S.C. 453) Enacted April 16, 1934, ch. 147, sec. 2, 48 Stat. 596; amended June 4, 1936, ch. 490, 49 Stat. 1459.

SEC. 3. That the Secretary of the Interior is hereby authorized to[1] perform any and all acts and to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of this Act into effect: *Provided*, That such minimum standards of service are not less than the highest maintained by the States or Territories within which said contract or contracts, as herein provided, are to be effective.

(25 U.S.C. 454) Enacted April 16, 1934, ch. 147, sec. 3, 48 Stat. 596; amended June 4, 1936, ch. 490, 49 Stat. 1459.

SEC. 4. The Secretary of the Interior shall not enter into any contract for the education of Indians unless the prospective contractor has submitted to, and has had approved by the Secretary of the Interior, an education plan, which plan, in the determination. The Secretary of the Interior shall not enter into any contract for the education of Indians unless the prospective contractor has submitted to, and has had approved by the Secretary of the Interior, an education plan, which plan, in the determination of the Secretary, contains educational objectives which adequately address the educational needs of the Indian students who are to be beneficiaries of the contract and assures that the contract is capable of meeting such objectives: *Provided,* That where students other than Indian students participate in such programs, money expended under such contract shall be prorated to cover the participation of only the Indian students.

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[1] The formula for distribution of JOM Supplemental Assistance is to be set by vote of the Tribes—sec. 1102 of P.L. 95-561, see page 245, infra.

(25 U.S.C. 455) Enacted January 4, 1975, P.L. 93-638, sec. 202, 88 Stat. 2213.

SEC. 5. (a) Whenever a school district affected by a contract or contracts for the education of Indians pursuant to this Act has a local school board not composed of a majority of Indians, the parents of the Indian children enrolled in the school or schools affected by such contract or contracts shall elect a local committee from among their number. Such committee shall fully participate in the development of, and shall have the authority to approve or disapprove programs to be conducted under such contract or contracts, and shall carry out such other duties, and be so structured, as the Secretary of the Interior shall by regulation provide: *Provided, however,* That, whenever a local Indian committee or committees established pursuant to section 305(b)(2)(B)(ii) of the act of June 23, 1972 (86 Stat. 235) or an Indian advisory school board or boards established pursuant to this Act prior to the date of enactment of this section exists in such school district, such committee or board may, in the discretion of the affected tribal governing body or bodies, be utilized for the purposes of this section.

(b) The Secretary of the Interior may, in his discretion, revoke any contract if the contractor fails to permit a local committee to perform its duties pursuant to subsection (a).

(25 U.S.C. 456) Enacted January 4, 1975, P.L. 93-638, sec. 202, 88 Stat. 2213, 2214.

SEC. 6. Any school district educating Indian students who are members of recognized Indian tribes, who do not normally reside in the State in which such school district is located, and who are residing in Federal boarding facilities for the purposes of attending public schools within such district may, in the discretion of the Secretary of the Interior, be reimbursed by him for the full per capita costs of educating such Indian students.

(25 U.S.C. 457) Enacted January 4, 1975, P.L. 93-638, sec. 202, 88 Stat. 2214.

(25 U.S.C. 452-457) Enacted April 16, 1934, P.L. 167, 73rd Cong., 48 Stat. 596; amended June 4, 1936, P.L. 638, 74th Cong., 49 Stat. 1458; amended June 29, 1960, P.L. 86-533, 74 Stat. 248; amended Jan 4, 1975, P.L. 93-638, 88 Stat. 2213.

Education Amendments of 1978

TITLE XI—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

AMENDMENT TO PUBLIC LAW 874

SEC. 1101. (a)[1] * * *

(b)[2] * * *

(c)[3] * * *

(d) Within one year of the date of enactment of this Act, the Secretary, in cooperation with the Commissioner, shall propose and promulgate special regulations which will provide that where a local educational agency does not undertake the remedial action required by the Commissioner under section 5(b)(3)(C)(vi) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Commissioner determines that an extension of time will not effectively encourage the remedy, the affected tribes may elect to contract with the Bureau under title I of the Indian Self-Determination and Education Assistance Act to provide educational services provided by the local educational agency or elect to have such services provided by a Bureau of Indian Affairs school. Such regulations shall also establish procedures whereby the funding necessary to provide such educational services may be obtained, and establish such procedures as are necessary to insure orderly and expeditious transition in provision of educational services.

(e)[4] * * *

(20 U.S.C. 240, note) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1101, 92 Stat. 2315.

FUNDING PROVISION

SEC. 1102. (a) The Secretary of the Interior shall develop alternative methods for the equitable distribution of any supplement program funds provided, pursuant to an appropriation under the Act of November 2, 1921, commonly referred to as the Snyder Act, for contracting under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act, and shall publish in the Federal Register by March 1, 1979, such alternatives for the purpose of allowing eligible tribes to comment by May 1, 1979. At that time, the Secretary shall conduct a field survey listing all alternative formula.

(b) By July 1, 1979, the Secretary shall establish and publish the formula in the Federal Register which the majority of such tribes determine, but vote certified to the Secretary, to be most equitable and shall use such formula for purposes of distribution of the funds appropriated pursuant to such Act beginning on or after October 1,

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[1] Section 1101(a) of the Education Amendments of 1978 (P.L. 95-561) amended section 3(d)(2)(D) of Public Law 874. See page 118.

[2] Section 1101(b) of the Education Amendments of 1978 repealed section 5(a)(2) of Public Law 874.

[3] Section 1101(c) of the Education Amendments of 1978 amended section 5(b) of Public Law 874 to add a new paragraph (3). See page 124.

[4] Section 1101(e) of the Education Amendments of 1978 amended section 5(c)(2)(A) of Public Law 874 by redesignating divisions (ii) through (vi) as (iii) through (viii) and by adding a new division (ii). See page 127.

1979. The Secretary shall, in accordance with procedures consistent with that prescribed herein, revise such formula periodically as necessary.

(25 U.S.C. 13 note) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1102, 92 Stat. 2316.

BASIC EDUCATIONAL SUPPORT

Sec. 1103. (a)(1) From sums already appropriated under the Act of November 2, 1921 (25 U.S.C. 13) and notwithstanding any other provision of law or any requirement of a grant or agreement relating to the timing of payments for basic support contracts or grants under the Act of April 16, 1934 (25 U.S.C. (452-457), the Secretary of the Interior shall make payments of all funds appropriated under the authority of the Act of November 2, 1921, for fiscal year 1978 (including any fiscal year 1978 funds subsequently obligated in fiscal year 1979 from such appropriation) for basic support contracts or grants to any school that had a deficit in its operating budget for fiscal year 1978 as a consequence of the lack of complete payment from the Department of the Interior for such contract or grant. Such payments shall be made in accordance with any applicable condition of such contracts or grants other than conditions relating to the timing of payments.

(2) The Secretary of the Interior shall make the payments referred to in paragraph (1) not later than thirty days after the date of the enactment of this Act, Saturdays, Sundays, and legal public holidays, as established by section 6103 of title 5, United States Code, shall not be considered as days for purposes of the preceding sentence.

(b) Such sums as are needed under such Act of November 2, 1921, are authorized to be appropriated to provide funds for basic educational support through parent committees under such Act of April 16, 1934, to those public schools educating Indian students and whose total sum of Federal, State, and local funds is insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students in the public schools in which they are enrolled where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

(25 U.S.C. 13, note) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1103, 92 Stat. 2316; amended Aug. 6, 1979, P.L. 96-46, sec. 2(b)(3), 93 Stat. 341.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

Sec. 1121. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, and in consultation with Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau schools and Indian controlled contract schools (hereinafter referred to as "contract schools"). Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographical isolation and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

(b)(1) Within eighteen months of the date of enactment of this Act, the Secretary shall propose minimum academic standards for the basic education of Indian children, and shall distribute such proposed standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within twenty-one months of the date of enactment of this Act, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(2) Such standards shall apply to Bureau schools, and subject to subsection (e), to contract schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe. Such standards shall include a requirement, developed in coordination with Indian tribes, the affected local school boards, the Indian Health Service of the Department of Health and Human Services, the State health departments, and the Federal Center for Disease Control, on immunization for childhood diseases, including provisions for in-school immunization, where necessary.

(c) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (b), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

(d) A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (b) and (c), where such standards are deemed by such body to be inappropriate or ill-conceived. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that takes into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable. Such revised standards shall be established by the Secretary unless such standards are specifically rejected by the Secretary for good cause and the Secretary notifies each affected tribe and local school board in writing of such rejection. Such rejection shall be final and not reviewable.[1]

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[1] P.L. 99-89, 99 Stat. 379, inadvertently added these sentences, thereby repeating the previous sentences.

(e)(1) The Secretary, through contracting procedures, shall assist school boards of contract schools in the implementation of the standards established under subsection (b) and (c), if the school boards request that such standards, in part or in whole, be implemented. At the request of a contract school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (b) and (c) to take into account the needs of the Indian children and the contract school.

(2) Within two years after the date of enactment of the Indian Education Technical Amendments Act of 1985, or two years after the date of the initial contract for the provision of educational services under the Indian Self-Determination and Education Assistance Act, whichever is later, each such school shall (A) be in compliance with the standards prescribed under subsection (a), or (B) have obtained accreditation, or be a candidate for accreditation, with one of the accrediting agencies recognized by the Secretary of Education or the State in which it is found. The Secretary shall not rescind or fail to renew a contract because of this paragraph until at least one year after notifying the school of a failure to comply. During such one-year period, the Secretary shall render technical assistance to aid the school to comply.

(3) Within one year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, the Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract schools. Such standards shall yield data results comparable to those used by Bureau schools.

(f) Subject to subsections (d) and (e), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. No later than January 1, 1981, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

(g)(1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau of Indian Affairs on or after the date of enactment of the Indian Education Technical Amendments Act of 1985 may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtailment of Bureau schools in accordance with the requirements of this subsection.

(3) Such standards and procedures shall require that whenever closure, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed effective date. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

(4) The Secretary shall make a report to Congress, the affected tribe, and the designated local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to insure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.[1]

(h) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

(i)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school); or

(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

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[1] In the Continuing Resolution for FY 1987, P.L. 99-591, the Bureau was instructed to prepare and submit such a report for Phoenix Indian School, Phoenix, Arizona, and further instructed to "take no action to close the school or dispose of the property" until Congress specifically instructed. The Appropriations Committee intended this to be permanent.

(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall, not later than 120 days after the date of the enactment of this subsection, provide for—

(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

(B) individual student crisis intervention.

(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.

(25 U.S.C. 2001) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1121, 92 Stat. 2316; amended Aug. 6, 1979, P.L. 96-46, sec. 2(b)(2)-(4), 93 Stat. 341; amended Oct. 19, 1984, P.L. 98-511, sec. 502(a)-(e), 98 Stat. 2391; amended Aug. 15, 1985, P.L. 99-89, sec. 2(a)-(d), 98 Stat. 379; amended Oct. 27, 1986, P.L. 99-570, sec. 4133 (b)(3), 100 Stat. —.

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

SEC. 1122. (a) The Secretary, in consultation with the Assistant Secretary for Health, Education, and Welfare for Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

(b) Within fifteen months of the date of enactment of this Act, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of the enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Prior to any revision of such criteria, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. No later than January 1, 1981, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

(d) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

(25 U.S.C. 2002) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1122, 92 Stat. 2318; amended Aug. 6, 1979, P.L. 96-46, sec. 2(b)(5), 93 Stat. 341.

REGULATIONS

SEC. 1123. The Secretary shall establish such regulations as are necessary to carry out sections 1121 and 1122 within eighteen months after the date of enactment of this Act.

(25 U.S.C. 2003) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1123, 92 Stat. 2319.

SCHOOL BOUNDARIES

SEC. 1124. (a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

(b) On or after the date of enactment of the Indian Education Technical Amendments Act of 1985, no attendance area shall be changed or established with respect to any such school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs.

(c) In any case where there is only one Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

(d) The Bureau of Indian Affairs shall include in the final rules the requirement that each superintendent for education coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.

(25 U.S.C. 2004) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1124, 92 Stat. 2319; amended Oct. 19, 1984, P.L. 98-511, sec. 503, 98 Stat. 2393; amended Aug. 15, 1985, P.L. 99-89, sec. 3, 99 Stat. 380.

FACILITIES CONSTRUCTION

SEC. 1125. (a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), and with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act.

(b) Within one year of the date of enactment of this Act, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

(25 U.S.C. 2005) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1125, 92 Stat. 2319.

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 1126. (a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs within the Bureau (hereinafter referred to as the "Office"), which shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding.

(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including (but not limited to) school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education, except that the Secretary shall review the applications for the new school starts which were filed with the Bureau before October 1, 1984, under the rules and guidelines in effect on the date the application was filed. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.

(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b), shall—

(1) monitor and evaluate Bureau education programs,

(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

However, in the case of boarding schools located off reservation operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

(A) for school facilities to be constructed under the system required by section 1125(c);

(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

(C) including a 5-year plan for capital improvements.

(2) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include, but not be limited to—

(A) a method of computing the amount necessary for each education facility;

(B) similar treatment of all Bureau and contract schools;

(C) a notice of an allocation of appropriated funds from the Director of the Office directly to the agency superintendents for education, or to the area education program administrators in the case of multitribal boarding schools located off reservation; and

(D) a system for the conduct of routine preventive maintenance.

The agency superintendents for education, or the area education program administrator in the case of multitribal boarding schools located off reservation, shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made in this regard by the agency superintendents for education and by the area education program administrators, except that no funds from this program may be authorized for expenditure by an agency superintendent for education or by an area education program administrator unless such superintendent or administrator is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

(3) The requirements of this subsection shall be implemented within 270 days following the date of enactment of the Indian Education Technical Amendments Act of 1985.

(e) For the purpose of this section the term "functions" includes powers and duties.

(25 U.S.C. 2006) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1126, 92 Stat. 2319; amended Aug. 6, 1979, P.L. 96-46, sec. 2(b)(6), 93 Stat. 341; amended Oct. 19, 1984, P.L. 98-511, sec. 504(a)-(d), 98 Stat. 2393; amended Aug. 15, 1985, P.L. 99-89, sec. 4, 99 Stat. 301.

IMPLEMENTATION

SEC. 1127. Within six months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made under section 1126.

(25 U.S.C. 2007) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1127, 92 Stat. 2320.

ALLOTMENT FORMULA

SEC. 1128. (a) The Secretary shall establish, by regulation adopted in accordance with section 1138, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

(1) the number of eligible Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs;

(C) food and housing costs;

(D) maintenance and repair costs associated with the physical condition of the educational facilities;

(E) special transportation and other costs of isolated and small schools;

(F) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

(G) costs associated with greater lengths of service by educational personnel; and

(H) special programs for gifted and talented students;

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

(4) such other relevant factors as the Secretary determines are appropriate.

Upon the establishment of the standards required by sections 1121 and 1122 of this Act, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established.

(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau and contract schools, shall be allotted pro rata in accordance with the formula established under subsection (a), except that, in the case of any such school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an average payment per Indian child attending such school in that district which is higher than the amount which would be received by such Bureau or contract school under such formula for each eligible Indian student attending such school, the payment to be received by that school under this section for each such child shall be equal to such average payment for an eligible Indian student in public school in that district.

(c)(1) The formula established under subsection (a) of this section shall be implemented for fiscal year 1980 and each succeeding fiscal year, except that—

(A) for fiscal year 1980, no school shall as a consequence of such formula receive less than 90 per centum, nor more than 120 per centum, of the funds it received from Bureau education funds for fiscal year 1979;

(B) for fiscal year 1981, no school shall as a consequence of such formula receive less than 70 per centum, nor more than 170 per centum, of the funds it received from Bureau education funds for fiscal year 1979; and

(C) for fiscal year 1982 and any succeeding fiscal year the formula shall be fully implemented.

(2) All Bureau and contract schools receiving funds under this section shall receive an equal amount as an allowance for local school board training and activities including, notwithstanding any other provision of law, meeting expenses and the cost of membership in or support of organizations engaged in activities on behalf of Indian education.

(3) The Secretary shall, subject to appropriations, provide to all contract schools an amount for administrative and indirect costs which is at least equal to the amount which would be expended by the Secretary if such school were directly operated by the Secretary. The Secretary shall take such actions as are necessary to provide contract schools with the full amount as determined by this paragraph without reducing funds available under subsection (a) of this section.

(d) Notwithstanding subsection (b), the Secretary shall provide funds for the general local operation of Bureau and contract schools where necessitated by cases of emergencies or unforeseen contingencies not otherwise provided for under subsection (a). Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress.

(e) Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

(f) In this section "eligible Indian student" means a student who—

(1) is a member of or is at least a one-fourth degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians, and

(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau or contract school. A student attending a Bureau school under clause (2)(C) of this subsection may not be charged tuition.

(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

(B) the school board consents, and

(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site, or

(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students. The tuition collected is in addition to the school's allocation under this section.

(3) The school board of a contract school may permit students who are not eligible Indian students under this subsection to attend its contract school and any tuition collected for those students is in addition to funding under this section.

(25 U.S.C. 2008) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1128, 92 Stat. 2320; amended Aug. 6, 1979, P.L. 96-46, sec. 2(b)(7), (8), 93 Stat. 341; amended Oct. 19, 1984, P.L. 98-511, sec. 505(a)-(c), 98 Stat. 2394; amended Aug. 15, 1985, P.L. 99-89, sec. 5, 99 Stat. 381; amended Dec. 28, 1985, P.L. 99-228, sec. 1, 99 Stat. 1747.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 1129. (a)(1) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau and contract schools. Such system shall allot funds, in accordance with section 1128. Amounts appropriated for distribution under this section may be made available under paragraph (2) or under paragraph (3), as provided in the appropriation Act.

(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1128, amounts appropriated in the appropriations Act for any fiscal year shall become available for obligation by the affected schools on October 1 of the fiscal year for which they are appropriated without further action by the Secretary, and shall remain available through six months of the succeeding fiscal year. In order to effect the transition to the advance funding method of distribution described in the preceding sentence, there are authorized to be appropriated, in an appropriations Act or Acts for the same fiscal year, two separate appropriations for such allotments, the first of which shall not be subject to the preceding sentence.

(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

(i) publish, on July 1 preceding the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1182 of 75 per centum of such appropriations, based on the school's student count for the preceding academic year; and

(ii) publish, no later than November 1 of the fiscal year for which funds are appropriated the allotments to be made from the remaining 25 per centum, adjusted to reflect actual student count, such funds to be immediately available for obligation by the affected schools.

(3)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1128, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which they are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year. In order to effect a transition to the forward funding method of distribution described in the preceding sentence, there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations for such allotments, the first of which shall not be subject to the preceding sentence.

(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

(i) publish, on July 1 preceding the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1128 of 85 percent of such appropriation; and

(ii) publish, no later than September 30 of such preceding fiscal year, the allotments to be made under section 1128 of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

(4) Pursuant to guidelines established by the Assistant Secretary, notwithstanding any law or regulation governing procurement by Federal agencies, the supervisor of each school receiving funds under section 1128 shall, subject to school board approval, have the authority to expend no more than $25,000 annually of the funds allotted by section 1128 to procure supplies and equipment, without competitive bidding.

(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such action of the local school board to the superintendent for education of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the action of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

(c) Funds for self-determination grants under section 104(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and the development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

(25 U.S.C. 2009) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1129, 92 Stat. 2321; amended Oct. 19, 1984, P.L. 98-511, secs. 506(a) and (b), 507(a), 98 Stat. 2395, 2396; amended October 27, 1986, P.L. 99-570, sec. 4133(b)(4), 100 Stat. —.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 1130. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

(25 U.S.C. 2010) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1130, 92 Stat. 2321; amended Aug. 15, 1985, P.L. 99-89, sec. 6, 99 Stat. 382.

EDUCATION PERSONNEL

SEC. 1131. (a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to leave, pay, and classification, and the sections relating to the appointment, promotion and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

(2) Paragraph (1) shall take effect one year after the date of enactment of this Act.

(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(1) the establishment of education positions,

(2) the establishment of qualifications for educators,

(3) the fixing of basic compensation for educators and education positions,

(4) the appointment of educators,

(5) the discharge of educators,

(6) the entitlement of educators to compensation,

(7) the payment of compensation to educators,

(8) the conditions of employment of educators,

(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),

(10) the leave system for educators, and

(11) such other matters as may be appropriate.

(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c)(1)(A)(ii) or that such individual has applied at the national level for an education position.

(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filed at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii).

(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d)(2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d)(3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the determination of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.

(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not

be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.

(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, if the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under procedures that comport with the requirements of due process; and

(C) educators employed in Bureau schools shall be notified sixty days prior to the end of the school year whether their employment contract will be renewed for the coming year.

(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(3) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, where such a waiver is in writing deemed to be a necessity by the tribal organization, except that this shall in no way relieve the Bureau of its responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if it is intended to fill a vacancy (no matter how such vacancy is created).

(2) For purposes of this subsection, the term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1139, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(3) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b); 88 Stat. 2295).

(g) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

(h)(1) The Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

(i) Any individual—

(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an educa-

tion position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purpose of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

(1) is employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

(n) For the purpose of this section—

(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a Bureau school and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

(o)(1) This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of subsection (a)(2) in an education position, or such individual's right to receive the compensation attached to such position.

(2) Any individual employed in an education position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act, make an irrevocable election to be covered under the provisions of this section.

(25 U.S.C. 2011) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1131, 92 Stat. 2322; amended Oct. 19, 1984, P.L. 98-511, sec. 507(b), 98 Stat. 2396.

MANAGEMENT INFORMATION SYSTEM

SEC. 1132. The Secretary shall establish within the Office, within one year after the date of the enactment of the Indian Education Amendments of 1984, a computerized management information system, which shall provide information to the Office. Such information shall include but shall not be limited to—

(1) student enrollment;

(2) curriculum;

(3) staff;

(4) facilities;

(5) community demographics;

(6) student assessment information; and

(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.

(25 U.S.C. 2012) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1132, 92 Stat. 2326; amended Aug. 6, 1979, P.L. 96-46, sec. 2(b)(9), 93 Stat. 341; amended Oct. 19, 1984, P.L. 98-511, sec. 508, 98 Stat. 2397.

BUREAU EDUCATION POLICIES

SEC. 1133. Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within one year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

(25 U.S.C. 2013) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1133, 92 Stat. 2327.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 1134. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

(25 U.S.C. 2014) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1134, 92 Stat. 2327.

RECRUITMENT OF INDIAN EDUCATORS

SEC. 1135. The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

(25 U.S.C. 2015) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1135, 92 Stat. 2327.

ANNUAL REPORT

SEC. 1136. (a) The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include (1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d; 88 Stat. 2216) and recommendations with respect to the future use of such funds; (2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and (3) the plans required by section 1121(f), and 1122(c); and 1125(b) of this Act (25 U.S.C. 2001(f), 2002(c), and 2005(b)).

(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.

(25 U.S.C. 2016) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1136, 92 Stat. 2327; amended Dec. 21, 1982, P.L. 97-375, sec 208(b), 96 Stat. 1824; amended Oct. 19, 1984, P.L. 98-511, sec. 509, 98 Stat. 2397; amended Aug. 15, 1985, P.L. 99-89, sec. 7, 99 Stat. 383.

RIGHTS OF INDIAN STUDENTS

SEC. 1137. Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to insure the constitutional and civil rights of Indian students attending Bureau schools, including, but not limited to, their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions.

(25 U.S.C. 2017) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1137, 92 Stat. 2327.

REGULATIONS

SEC. 1138. Regulations required to be adopted under sections 1126 through 1137 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section. Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(25 U.S.C. 2018) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1138, 92 Stat. 2327; amended Oct. 19, 1984, P.L. 98-511, sec. 510, 98 Stat. 2397.

DEFINITIONS

SEC. 1139. For the purpose of this title—

(1) the term "agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

(2) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(3) the term "Commissioner" means the Commissioner of Education;

(4) the term "financial plan" means a plan of services to be provided by each Bureau school;

(5) the term "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

(6) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(7) the term "local school board", when used with respect to a Bureau school, means a body chosen in accordance with the

laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

(8) the term "Secretary" means the Secretary of the Interior;

(9) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school; and

(10) the term "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(25 U.S.C. 2019) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1139, 92 Stat. 2328.

VOLUNTARY SERVICES

SEC. 1140. Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(25 U.S.C. 2020) Enacted Oct. 19, 1984, P.L. 98-511, sec. 511, 98 Stat. 2398; amended Aug. 15, 1985, P.L. 99-89, sec. 8, 99 Stat. 383.

PRORATION OF PAY

SEC. 1140A. (a) Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school-year over the entire twelve month period. Each educator employed for the academic school-year shall annually elect to be paid on a twelve month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally-assisted programs, because of such election.

(b) During the course of such year the employee may change election once.

(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

(d) For the purposes of this section the terms "educator" and "education position" have the meaning contained in section 1131(n)(1) and (n)(2) of this title. This section applies to those individuals employed under the provisions of section 1131 of this title or title 5, United States Code.

(25 U.S.C. 2021) Enacted Oct. 19, 1984, P.L. 98-511, sec. 512, 98 Stat. 2398; amended Aug. 15, 1985, P.L. 99-89, sec. 9(a)(1), (b), 99 Stat. 383.

EXTRACURRICULAR ACTIVITIES

SEC. 1140B. (a) Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

(b) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

(c) This section applies to all Bureau employees, whether employed under section 1131 of this title or title 5, United States Code.

(25 U.S.C. 2022) Enacted Oct. 19, 1984, P.L. 98-511, sec. 512, 98 Stat. 2398; amended Aug. 15, 1985, P.L. 99-89, sec. 9(a)(1), (c), 99 Stat. 383.

SEC. 1143. Repealed.

(25 U.S.C. 2023) Enacted Oct. 19, 1984, P.L. 98-511, sec. 512, 98 Stat. 2398; repealed Aug. 15, 1985, P.L. 99-89, sec. 9(a)(2), 99 Stat. 383.

PART C—INDIAN EDUCATION PROVISIONS[1]

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TRIBAL SCHOOLS

SEC. 1146. Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

(20 U.S.C. 241bb-1) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1146, 92 Stat. 2330.

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PROGRAM MONITORING

SEC. 1149. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act, and shall report to the Congress his findings.

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[1] Part C of title XI of the Education Amendments of 1978 contained amendments to various other laws concerning Indian education, and have been incorporated in the texts of those laws, for purposes of this statute.

(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act.

(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.

(20 U.S.C. 241aa, note) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1149, 92 Stat. 2331.

PART IV—REFUGEE AND IMMIGRANT EDUCATION

Refugee Education Assistance Act of 1980

(P.L. 96–422)

AN ACT To provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Education Assistance Act of 1980".

(8 U.S.C. 1522, note) Enacted October 10, 1980, P.L. 96–422, sec. 1, 94 Stat. 1799.

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. As used in this Act—

(1) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(2) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(3) The term "eligible participant"[1] means any alien who—

(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act;

(C) is an applicant for asylum, or has been granted asylum, in the United States; or

(D) has fled from the alien's country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 36-month beginning with the first month in which the alien entered the United States (in the case of an alien described in (A), (B), or (D)) or the month in which the alien applied for asylum (in the case of an alien described in subparagraph (C)).

(4) The term "Secretary" means the Secretary of Education.

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[1] Section 543(a)(2) of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35, 95 Stat. 4461) contained the following provision:

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be an eligible participant (within the meaning of section 101(3) of such Act), but only during the 36-month period beginning with the first month in which the alien entered the United States as such an entrant or otherwise first acquired such status.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 101, 94 Stat. 1799, 1800; amended August 13, 1981, P.L. 97-35, sec. 543 (a)(1), 95 Stat. 459.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 102, 94 Stat. 1800.

TREATMENT OF CERTAIN JURISDICTIONS

SEC. 103. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the amount authorized to be appropriated under section 201 for that period;

(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 103, 94 Stat. 1800; amended August 13, 1981, P.L. 97-35, sec. 543(b), 95 Stat. 459.

STATE ADMINISTRATIVE COSTS

SEC. 104. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 2 percent of the amount which that State educational agency receives for that period under this Act.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 104, 94 Stat. 1801; amended August 13, 1981, P.L. 97-35, sec. 543(c), 95 Stat. 459.

WITHHOLDING

SEC. 105. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 105, 94 Stat. 1801.

CONSULTATION WITH OTHER AGENCIES

SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to eligible participants in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of the Act.

(8 U.S.C. 1522, note) Enacted Aug. 13, 1981, P.L. 97-35, sec. 543(d), 95 Stat. 460.

TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

STATE ENTITLEMENTS

SEC. 201. (a) The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for eligible participants enrolled in elementary or secondary public schools. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State.

(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that an eligible participant assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 201, 94 Stat. 1801, 1802; amended August 13, 1981, P.L. 97-35, sec. 544(a), 95 Stat. 460.

APPLICATIONS

SEC. 202. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;

(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing; and

(5) provide for making such reports as the Secretary may reasonably require to carry out this title.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 202, 94 Stat. 1802; amended August 13, 1981, P.L. 97-35, sec. 544(b), 95 Stat. 461.

PAYMENTS AND AUTHORIZATIONS

SEC. 203. (a) The Secretary shall pay to each State educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

(b) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated in the manner specified under section 102, to make payments under this title an amount equal to the product of—

(1) the total number of eligible participants enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made,

multiplied by

(2) $400.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 203, 94 Stat. 1802; amended August 13, 1981, P.L. 97-35, sec. 544(c), 95 Stat. 461.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN ATTENDANCE

STATE ENTITLEMENTS

SEC. 301. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purpose set forth in section 302.

(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

(A) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants less than one year, multiplied by (ii) $700;

(B) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants at least one year but not more than two years, multiplied by (ii) $500; and

(C) the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants more than two years but not more than three years, multiplied by (ii) $300.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of eligible participants and Indochinese refugee children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

(A) at least 500; or

(B) at least 5 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less. Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

(3) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of eligible participants, except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(4) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to eligible participants who meet the requirements of section 101(4).

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 301, 94 Stat. 1803-1805; amended August 13, 1981, sec. 545(b), 95 Stat. 461.

USES OF FUNDS

Sec. 302. (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section, for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Financial assistance provided under this title shall be available to meet the costs of providing eligible participants supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of eligible participants, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 302, 94 Stat. 1805; amended August 13, 1981, P.L. 97-35, sec. 545(b), 95 Stat. 460.

APPLICATIONS

Sec. 303. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 302;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301, subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for eligible participants enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant concentration of eligible participants, and (B) the local educational agencies within whose districts are eligible participants provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;

(6) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

(7) provide assurances—

(A) that to the extent consistent with the number of eligible participants enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 303, 94 Stat. 1805, 1806; amended August 13, 1981, P.L. 97-35, sec. 545(c), 95 Stat. 462.

PAYMENTS

Sec. 304. (a) The Secretary shall pay to each State educational agency having an application approved under section 303 the amount which that State is entitled to receive under this title.

(b) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this Act.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 304, 94 Stat. 1806, 1807.

TITLE IV—ADULT EDUCATION PROGRAMS

STATE ENTITLEMENTS

SEC. 401. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1982, and for each subsequent fiscal year for the purposes of providing for the operation of adult education programs as described under section 402 for eligible participants aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of eligible participants aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies;

multiplied by—

(B) $300.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 401, 94 Stat. 1807; amended August 13, 1981, P.L. 97-35, sec. 546(a), (b), 95 Stat. 463.

USE OF FUNDS

Sec. 402. (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to eligible participants aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhancement of necessary skills, and for the promotion of literacy among such refugees;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of such adult refugees, including guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b) The State educational agency shall review applications for grants and contracts in a manner consistent with the purposes of paragraphs (12) and (13) of section 306(b) of the Adult Education Act.

(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of eligible participants aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 402, 94 Stat. 1808; amended August 13, 1981, P.L. 97-35, sec. 546(a), (c), 95 Stat. 463.

APPLICATIONS

Sec. 403. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

(2) specify the amount of reduction required under section 401(b)(2);

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

(4) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 403, 94 Stat. 1808; amended August 13, 1981, P.L. 97-35, sec. 546(c), 95 Stat. 463.

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) [Repealed by P.L. 96-424]

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrant means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

(8 U.S.C. 1522, note) Enacted Oct. 10, 1980, P.L. 96-422, sec. 501, 94 Stat. 1809, 1810; repealed in part Oct. 10, 1980, P.L. 96-424, sec. 1, 94 Stat. 1820 (effective Oct. 11, 1980).

Emergency Immigrant Education Act of 1984[1]

TITLE VI—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

SHORT TITLE

SEC. 601. This title may be cited as the "Emergency Immigrant Education Act of 1984".

(20 U.S.C. 4101, note) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2401.

DEFINITIONS

SEC. 602. As used in this title—

(1) The term "immigrant children" means children who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years.

(2) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(3) The term "elementary or secondary nonpublic schools" means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(4) The term "Secretary" means the Secretary of Education.

(20 U.S.C. 4101) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2401.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 603. (a) There are authorized to be appropriated to make payments to which State educational agencies are entitled under this title and payments for administration under section 604 $30,000,000 for fiscal year 1985, and $40,000,000 for fiscal year 1986 and for each of the three succeeding fiscal years.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this title are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this title for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this title for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

(20 U.S.C. 4102) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2401.

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[1] The Emergency Immigrant Education Act of 1984 was enacted as title VI of the Education Amendments of 1984.

STATE ADMINISTRATIVE COSTS

SEC. 604. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

(20 U.S.C. 4103) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2402.

WITHHOLDING

SEC. 605. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this title, the Secretary shall notify that agency that further payments will not be made to the agency under this title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this title to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this title, or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

(20 U.S.C. 4104) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2402.

STATE ENTITLEMENTS

SEC. 606. (a) The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985, 1986, 1987, 1988, and 1989 for the purpose set forth in section 607.

(b)(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, is equal to—

(A) at least five hundred; or

(B) at least 3 per centum of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less.

(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this title, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee,[1] asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this title.

(B) No reduction of a grant under this title shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this title.

(c)(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

(20 U.S.C. 4105) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2402.

USES OF FUNDS

Sec. 607. (a) Payments made under this title to any State may be used in accordance with applications approved under section 608 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 606(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

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[1] So in law. Should be "parolee".

(b) Financial assistance provided under this title shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

(20 U.S.C. 4106) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2403.

APPLICATIONS

SEC. 608. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 607;

(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 606(b)(1), adjusted to reflect any reductions imposed pursuant to section 606(b)(3) which are attributable to such local educational agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this title; and

(6) provide assurances—

(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this title and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

(20 U.S.C. 4107) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2404.

PAYMENTS

SEC. 609. (a) Except as provided in section 603(b), the Secretary shall pay to each State educational agency having an application approved under section 608 the amount which that State is entitled to receive under this title.

(b) If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 608(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 557(b)(3) and (4) of the Education Consolidation and Improvement Act of 1981.

(20 U.S.C. 4108) Enacted Oct. 19, 1984, P.L. 98-511, 98 Stat. 2405.

PART V—ADULT EDUCATION

Adult Education Act

TITLE III—ADULT EDUCATION[1]

SHORT TITLE

SEC. 301. This title may be cited as the "Adult Education Act".

(20 U.S.C. 1201 note) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 301, 81 Stat. 1216; amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 159.

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(1) enable all adults to acquire basic literacy skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) to make available to adults the means to secure training and education that will enable them to become more employable, productive, and responsible citizens.

(20 U.S.C. 1201) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 302, 80 Stat. 1216; amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 159; amended Nov. 1, 1978, P.L. 95-561, sec. 1301, 92 Stat. 2356; amended Oct. 19, 1984, P.L. 98-511, sec. 101, 98 Stat. 2366.

DEFINITIONS

SEC. 303. As used in this title—

(a) The term "adult" means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 305(a), the term "adult" means an individual 16 years of age or older.

(b) The term "adult education" means instruction or services below the college level for adults who do not have—

(1) the basic skills to enable them to function effectively in society; or

(2) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(c) The term "adult basic education" means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

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[1] The Adult Education Act was enacted as Title III of the Elementary and Secondary Education Act of 1966.

(d) The term "Secretary" means the Secretary of Education.

(e) The term "community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural and other related community services for the community that center serves in accordance with the needs, interest, and concerns of that community.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(g) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

(i) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(j) The term "institution of higher education" means any such institution as defined by section 481 of the Higher Education Act of 1965.

(20 U.S.C. 1202) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 303, 80 Stat. 1216; amended Oct. 16, 1968, P.L. 90-576, Title III, sec. 302, 82 Stat. 1095; amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 159; amended Aug. 21, 1974, P.L. 93-380, sec. 601, 88 Stat. 576; amended Nov. 1, 1978, P.L. 95-561, sec. 1302, 1304, 92 Stat. 2357; amended Oct. 19, 1984, P.L. 98-511, sec. 102(a)-(e), 98 Stat. 2366.

GRANTS TO STATES FOR ADULT EDUCATION

SEC. 304. (a)(1) The Secretary is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (A) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions, and (B) the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The State educational agency shall not approve any application unless assured that such consultation has taken place. Such application shall contain a description of the cooperative arrangements that have been made to deliver services to adult students.

(2) Grants provided under this section may not be used to carry out programs by a for-profit agency, organization, or institution unless such agency, organization, or institution (A) can make a significant contribution to attaining the objectives of this Act, and (B) can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions. Whenever the establishment or expansion of programs is carried out by a for-profit agency, organization, or institution, the State educational agency or eligible applicant shall enter into a contract with such agency, organization, or institution, for the establishment or expansion of such programs.

(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.

(20 U.S.C. 1203) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 304, 80 Stat. 1217; amended Jan. 2, 1968, P.L. 90-247, Title V, sec. 502(a), 81 Stat. 815; amended Apr. 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 160; amended August 21, 1974, P.L. 93-380, sec. 602, 88 Stat. 576; amended Nov. 1, 1978, P.L. 95-561, sec. 1303, 92 Stat. 2357; amended Oct. 19, 1984, P.L. 98-511, secs. 102(f), 103(a) and (b), 98 Stat. 2366, 2367.

ALLOTMENT FOR ADULT EDUCATION

SEC. 305. (a) Subject to the last sentence of this subsection, from the sums available for purposes of section 304(b) for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $250,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. No State shall be allotted in any fiscal year beginning after September 30, 1984, an amount less than that State received for fiscal year 1984.

(b) The portion of any State's allotment under section (a) for a fiscal year which the Secretary determines will not be required, for the period of such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly realloted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(20 U.S.C. 1204) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 305, 80 Stat. 1217; amended Jan. 2, 1968, P.L. 90-247, Title V, sec. 501, 81 Stat. 815; amended Apr. 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 160; amended Dec. 30, 1970, P.L. 91-600, sec. 3(a), 84 Stat. 1669; amended Aug. 21, 1974, P.L. 93-380, sec. 843(c)(3), 88 Stat. 611; amended Nov. 1, 1978, P.L. 95-561, sec. 1304(b), 92 Stat. 2357; amended Oct. 19, 1984, P.L. 98-511, secs. 102(f), 104(a) and (b), 98 Stat. 2366, 2367.

STATE PLANS

SEC. 306. (a) A State shall be eligible to receive its allotment under section 305 if —

(1) it has on file with the Secretary a general State application under section 435 of the General Education Provisions Act, and

(2) it has submitted to the Secretary at such times (not more frequently than one every three years), and in such detail, as the Secretary shall prescribe a State plan meeting the requirements of subsection (b).

(b) A State plan under this title shall—

(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults;

(2) provide for the administration of the program by the State educational agency;

(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation, and coordination among the State educational agency, State manpower service councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of

equivalency for a certificate of graduation from a secondary school;

(6) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations;

(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rate of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations:

(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703 (a) of title VII of the Elementary and Secondary Education Act of 1965) by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under title VII and bilingual vocational education programs under the Carl D. Perkins Vocational Education Act;

(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

(13) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions;

(14) provide such further information about the State's adult education students, programs, expenditures, and goals as the Secretary may require, together with information with respect

to the age, sex, and race of students in the programs assisted under this Act and whether the students complete such programs; and

(15) provide such further assurances and information as the Secretary may require.

(c) The Secretary shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

(20 U.S.C. 1205) Enacted Nov. 3, 1966, P.L. 890-750, Title III, sec. 306, 80 Stat. 1218; amended Jan. 2, 1968, P.L. 90-247, Title V, sec. 502(b), 81 Stat. 815; amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 161; amended August 21, 1974, P.L. 93-380, sec. 603, 88 Stat. 576; amended August 21, 1974, P.L. 93-380, sec. 607(a), 88 Stat. 578; amended Nov. 1, 1978, P.L. 95-561, sec. 1305, 92 Stat. 2357; amended Oct. 19, 1984, P.L. 98-511, secs. 102(f), 105(a) and (b), 98 Stat. 2366, 2367; amended October 19, 1984, P.L. 98-524, sec. 4(d), 98 Stat. 2488.

PAYMENTS

Sec. 307. (a) The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum.

(b)(1) No payment shall be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

(2) The Secretary may waive, for one fiscal year only, the requirements of paragraph (1) of this subsection, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

(20 U.S.C. 1206) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 307, 80 Stat. 1219, amended Jan. 2, 1968, P.L. 90-247, Title III, sec. 503, 81 Stat. 815; amended April 13, 1970. P.L. 91-230, Title III, sec. 301, 84 Stat. 162; amended Oct. 12, 1976, P.L. 94-482, Title III, Part B, sec. 323(a)(4), 90 Stat. 2218; amended Nov. 1, 1978, P.L. 95-561, sec. 1306, 92 Stat. 2359; amended Oct. 19, 1984, P.L. 98-511, sec. 102(f), 106, 98 Stat. 2366, 2368.

ADMINISTRATION OF STATE PLANS

Sec. 308. Whenever the Secretary has reason to believe that, in administering its State plan, a State has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under sections 453 and 454 of the General Education Provisions Act.

(20 U.S.C. 1207) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 308, 80 Stat. 1219; amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 162; amended Oct. 19, 1984, P.L. 98-511, sec. 107, 98 Stat. 2368.

RESEARCH, DEVELOPMENT, DEMONSTRATION, DISSEMINATION, AND EVALUATION

SEC. 309. (a)(1) The Secretary shall, with funds set aside under section 314(b), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States. The activities required by this subsection may include—

(A) improving adult education opportunities for elderly individuals and adult immigrants,

(B) evaluating educational technology and computer software suitable for providing instruction to adults, and

(C) supporting exemplary cooperative adult education programs which combine the resources of businesses, schools and community organizations.

(2)(A) The Secretary may support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals, including business concerns.

(B) Whenever the Secretary makes a grant or enters into a contract or cooperative agreement with any private for-profit institution, agency, organization, individual, or business concern, the Secretary shall assure that participants in the program assisted under this subsection are not charged for their participation.

(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education may, with funds available under that section or with funds set aside under section 314(b) of this Act, support research on the special needs of individuals requiring adult education. The Director may support such research directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.

(20 U.S.C. 1207a) Enacted Nov. 1, 1978, P.L. 95-561, sec. 1307(b), 92 Stat. 2360; amended Oct. 19, 1984, P.L. 98-511, sec. 108, 98 Stat. 2368.

SEC. 309A. [Repealed by P.L. 95-561, sec. 1307(a)(2), 92 Stat. 2359.]

USE OF FUNDS FOR SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

SEC. 310. Of the funds allotted to a State under section 305 for a fiscal year, not less than 10 per centum shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this title, and which—

(A) involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

(B) involve programs of adult education, including education for persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

(20 U.S.C. 1208) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 309, 80 Stat. 1220; amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 163; amended Aug. 21, 1974, P.L. 93-380, sec. 604, 88 Stat. 577; amended Oct. 12, 1976, P.L. 94-482, Title III, Part B, sec. 329, 90 Stat. 2221; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), 92 Stat. 2360.

SPECIAL PROJECTS FOR THE ELDERLY

SEC. 311. [Repealed Oct. 19, 1984, P.L. 98-511, sec. 109(a), 98 Stat. 2369.]

(20 U.S.C. 1208a) Enacted May 3, 1973, P.L. 93-29, sec. 804(a), 87 Stat. 59, 60; amended Nov. 28, 1975, P.L. 94-135, sec. 202, 89 Stat. 726; amended Sept 24, 1977, P.L. 95-112, sec. 3(a)(1), 91 Stat. 912; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), sec. 1308, 92 Stat. 2360; repealed Oct. 19, 1984, P.L. 98-511, sec. 109(a), 98 Stat. 2369.

STATE ADVISORY COUNCILS

SEC. 311. Any State may use funds granted under section 304 to support a State advisory council which assists the State educational agency to plan, implement, or evaluate programs or activities assisted under this Act.

(20 U.S.C. 1208b) Enacted August 21, 1974, P.L. 93-380, sec. 606, 88 Stat. 577, 578, amended October 12, 1976, P.L. 94-482, Title V, Part A, sec. 501(g), 90 Stat. 2237; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), 92 Stat. 2360; redesignated and amended Oct. 19, 1984, P.L. 98-511, secs. 109, 110, 98 Stat. 2369.

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 312. (a) The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the "Council").

(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Secretary and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1988.

(c) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordinaton of programs under this title and other programs offering adult education activities and services.

(d) The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of the Council with that of other related advisory councils.

(20 U.S.C. 1209) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 310, 80 Stat. 1220; amended April 13, 1970, P.L. 91-230, sec. 301, 84 Stat. 163; redesignated May 3, 1973, P.L. 93-29, sec. 804(a), 87 Stat. 59, 60; amended April 21, 1976, P.L. 94-273, sec. 3(10), 90 Stat. 376; amended Sept. 24, 1977, P.L. 95-112, sec. 3(a)(2), 91 Stat. 912; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), sec. 1309, 92 Stat. 2360, 2361; redesignated and amended Oct. 19, 1984, P.L. 98-511, secs. 102(f), 109, 111, 98 Stat. 2369.

LIMITATION

Sec. 313. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(20 U.S.C. 1210) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 311, formerly sec. 313, 80 Stat. 1222; redesignated April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 164; redesignated May 3, 1973, P.L. 93-29, sec. 804(a), 87 Stat. 59, 60; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), 92 Stat. 2360; redesignated Oct. 19, 1984, P.L. 98-511, sec. 109, 98 Stat. 2369.

APPROPRIATIONS AUTHORIZED

Sec. 314. (a) For the purpose of carrying out this title there are authorized to be appropriated $140,000,000 for fiscal year 1985 and such sums as may be necessary for each of the three succeeding fiscal years.

(b)(1) From the amount appropriated pursuant to subsection (a) for any fiscal year the Secretary may set aside not to exceed 5 per centum of that amount for programs under section 309. The remainder of the amount appropriated in each fiscal year shall be available for grants made under section 304.

(2) No set aside may be made pursuant to paragraph (1) of this subsection in any fiscal year in which the amount appropriated pursuant to subsection (a) of this section is less than $112,000,000.

(20 U.S.C. 1211) Enacted Nov. 3, 1966, P.L. 89-750, Title III, sec. 312, formerly sec. 314, 80 Stat. 1222; amended Jan. 2, 1968, P.L. 90-247, Title V, sec. 504, 81 Stat. 815; redesignated and amended April 13, 1970, P.L. 91-230, Title III, sec. 301, 84 Stat. 164; amended Dec. 30, 1970, P.L. 91-600, sec. 3(b), 84 Stat. 1669; redesignated May 3, 1973, P.L. 93-29, sec. 804(a), 87 Stat. 59, 60; amended Aug. 21, 1974, P.L. 93-380, sec. 608, 88 Stat. 579; amended Sept. 24, 1977, P.L. 95-112, sec. 3(b), 91 Stat. 912; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), sec. 1310, 92 Stat. 2360, 2361; redesignated and amended Oct. 19, 1984, P.L. 98-511, secs. 109, 112, 98 Stat. 2369.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

SEC. 315. (a) The Secretary shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluation thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) The Secretary is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) The Secretary is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(d) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Secretary. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to October 1, 1986. There is authorized to be appropriated for such purpose for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.

(20 U.S.C. 1211a) Enacted June 23, 1972, P.L. 92-318, sec. 431, 86 Stat. 342, 343; amended August 21, 1974, P.L. 93-380, sec. 608, 88 Stat. 579; amended September 24, 1977, P.L. 95-112, sec. 3(c), 91 Stat. 912; amended Nov. 1, 1978, P.L. 95-561, sec. 1307(a)(3), sec. 1311(a), 92 Stat. 2360, 2361; redesignated and amended Oct. 19, 1984, P.L. 98-511, secs. 102(f), 109, 513(d), 98 Stat. 2369.

EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES

SEC. 317. [Repealed Aug. 13, 1981, P.L. 97-35, sec. 542, 95 Stat. 459.]

ADULT EDUCATION PROGRAM FOR ADULT IMMIGRANTS

SEC. 318. [Repealed October 19, 1984, P.L. 98-511, sec. 109, 98 Stat. 2369.]

PART VI—ADDITIONAL PROGRAMS TO IMPROVE ELEMENTARY AND SECONDARY INSTRUCTION

Education for Economic Security Act

AN ACT To provide assistance to improve elementary, secondary, and postsecondary education in mathematics and science; to provide a national policy for engineering, technical, and scientific personnel; to provide cost sharing by the private sector in training such personnel; to encourage creation of new engineering, technical, and scientific jobs; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for Economic Security Act".

(20 U.S.C. 3901 note) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1267.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to improve the quality of mathematics and science teaching and instruction in the United States.

(20 U.S.C. 3901) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1267.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "area vocational education school" has the same meaning given that term under section 521(3) of the Carl D. Perkins Vocational Education Act.

(2) The term "Director" means the Director of the National Science Foundation.

(3) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(4) The term "Governor" means the chief executive of a State.

(5) The term "Foundation" means the National Science Foundation.

(6) The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(7) The term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

(8) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(9) The term "Secretary" means the Secretary of Education.

(10) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(11) The term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher educa-

tion, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

(12) The term "State educational agency" has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

(20 U.S.C. 3902) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1267; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

TITLE I—NATIONAL SCIENCE FOUNDATION SCIENCE AND ENGINEERING EDUCATION

POLICY

SEC. 101. (a) The Congress declares that the science and engineering education responsibilities of the National Science Foundation are—

(1) to improve the quality of instruction in the fields of mathematics, science, and engineering;

(2) to support research, fellowships, teacher-faculty-business exchange programs in mathematics, science, and engineering;

(3) to improve the quality and availability of instrumentation for mathematics, science, and engineering instruction;

(4) to encourage partnerships in education between local and State education agencies, business and industry, colleges and universities, and cultural and professional institutions and societies; and

(5) to improve the quality of education at all levels in the fields of mathematics, science, and engineering.

(b) In exercising its responsibilities to strengthen scientific and engineering research potential and science and engineering education programs at all levels, the Foundation shall avoid undue concentration of support for research and education activities.

(20 U.S.C. 3911) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1268; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 893.

FUNCTIONAL OBJECTIVES; USES OF FUNDS

SEC. 102. (a) In carrying out its science and engineering education responsibilities, the Foundation shall have the following functional objectives: public understanding of science and technology, faculty enhancement, student education and training, instructional development and instrumentation, and materials development and dissemination.

(b) Funds under this title shall, consistent with such functional objectives, be used for—

(1) enhancement of public understanding of science and engineering through informal education activities using a variety of mediums such as broadcasting, museums, clubs, and amateur science societies;

(2) development of new science and engineering faculty resources and talents;

(3) enhancement of the quality of science and engineering instruction in colleges of teacher education;

(4) development of four-year college faculty and instructors in high technology fields;

(5) development of two-year community college faculty and instructors especially in high technology fields;

(6) development of precollege mathematics, science and engineering education and training;

(7) encouragement of potential students, including underrepresented and underserved populations, to pursue careers in mathematics, science, engineering, and critical foreign languages;

(8) development of instructional instrumentation and systems for postsecondary technical, engineering, and scientific education; and

(9) development of science, engineering, and education networks to aid in the development and dissemination of successful curricula, methods, and materials.

(20 U.S.C. 3912) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1268; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 894.

TEACHER INSTITUTES

Sec. 103. (a) The Foundation shall, in accordance with the provisions of this title, make competitive grants to institutions of higher education, businesses, nonprofit private organizations (including schools), local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of the Communications Act of 1934), and appropriate State agencies to support institutes and workshops for supervisors and teachers in public and private elementary and secondary schools for the purpose of improving the subject knowledge and teaching skills of such teachers in the areas of mathematics and science.

(b) In making grants under this section, the Foundation shall assure that there is an equitable distribution among States of institutes established and operated with funds made available under this section. The Foundation shall award not less than one institute in each State, except that the Foundation may waive this requirement if there is no proposal from a State which meets the requirements of this title. Proposals which exceed $300,000 in any fiscal year incorporating the services or resources of more than two entities in the design and operation of the institute, may be funded at the discretion of the Director of the Foundation.

(c) Institutes assisted under this title may, to the extent possible, involve the cooperation of advanced technology businesses and other businesses which are able to supply assistance in the teaching of mathematics and science.

(d) In making grants under this title, the Foundation shall require assurances that local education agencies will be involved in the planning and development of the institute in the case of applications submitted by other eligible applicants described in subsection (a) of this section, or that one or more such applicants will be involved in the planning and development of the institute in the case of applications submitted by State or local education agencies.

(20 U.S.C. 3913) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1269; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 894.

MATERIALS DEVELOPMENT AND METHODS RESEARCH FOR MATHEMATICS, SCIENCE, AND ENGINEERING

SEC. 104. (a) The Foundation is authorized, in accordance with the provisions of this title, to award competitive grants to institutions of higher education, businesses, nonprofit private organizations, local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of the Communications Act of 1934), and appropriate State agencies—

(1) for instructional curriculum improvement and faculty development in mathematics, science, and engineering;

(2) for programs designed to enhance public understanding of mathematics, science, and engineering, including the use of pulic broadcasting entities; and

(3) for research on methods of instruction and educational programs in mathematics, science, engineering, and critical foreign languages.

(b) Studies conducted under subsection (a)(3) may include—

(1) teaching and learning research and its application to local and private sector instructional materials development and to improved teacher training programs;

(2) research on the use of local and informal science education activities;

(3) research on recruitment, retention, and improvement of mathematics, science, engineering, and critical languages faculties; and

(4) analysis of materials and methods for mathematics, science, and engineering education used in other countries and their potential application in the United States.

(c) Funds awarded for such competitive grants shall be expended through a system requiring matching of the grant. The minimum amount required as a match shall be equal to a percentage of the grant that is determined by the Foundation. Funds made available for matching purposes may include in-kind services or other resources.

(d) In making grant applications for materials or methods research for the purposes described in subsections (a)(1) and (a)(3), the Foundation shall assure the involvement of appropriate State or local education agencies in the case of applications submitted by other entities described in subsection (a), or that one or more of such other entities will be consulted in the case of applications submitted by State or local education agencies.

(20 U.S.C. 3914) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1269; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 895.

GRADUATE FELLOWSHIPS

SEC. 105. The Foundation is authorized, in accordance with the provisions of this title, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in mathematics, science, and engineering.

(20 U.S.C. 3915) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1269; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 896.

OTHER FUNCTIONAL ACTIVITIES

SEC. 106. (a) The Foundation is authorized to expend up to 15 per centum of the funds available for science and engineering education for applications which the Foundation determines will meet one or more of the functional objectives described in section 102(b).

(b) Such programs may include a program for the exchange of mathematics, science, or engineering faculty between institutions of higher education (particularly institutions having nationally recognized research facilities) and eligible institutions. For the purposes of this section, the term "eligible institution" means an institution of higher education which—

(1) has an enrollment which includes a substantial percentage of students who are members of a minority group, or who are economically or educationally disadvantaged; or

(2) is located in a community that is not within commuting distance of a major institution of higher education; and

(3) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

(20 U.S.C. 3916) Enacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 896.

SCIENCE AND ENGINEERING EDUCATION STRATEGIC PLAN

SEC. 107. The Foundation shall develop a five-year strategic plan for science and engineering education, to be up-dated on an annual basis, and submitted to the Committee on Labor and Human Resources of the Senate, and the Committee on Science and Technology of the House of Representatives by November 30 of each year.

(20 U.S.C. 3917) Enacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 896.

APPROVAL OF PROPOSALS

SEC. 108. The Foundation shall adopt approval procedures designed to assure that awards are made on the basis of the scientific and educational merit as determined by the peer review process. To the maximum extent possible, the Foundation shall assure that there is an equitable distribution of resources with respect to institutions and geographical areas.

(20 U.S.C. 3918) Enacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 896.

SPECIAL CONSIDERATION OF UNDERREPRESENTED AND UNDERSERVED POPULATIONS

SEC. 109. In providing financial assistance under this title, the Foundation shall make every effort to ensure that consideration is given to proposals which contain provisions designed to meet the needs of underrepresented and underserved populations.

(20 U.S.C. 3919) Enacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

AVAILABILITY OF FUNDS

SEC. 110. Funds to carry out this title for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this title shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986.

(20 U.S.C. 3920) Enacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

PROHIBITION AGAINST THE FEDERAL CONTROL OF EDUCATION

SEC. 111. The provisions of section 432 of the General Education Provisions Act, relating to prohibition against Federal control of education, shall apply to each program and award authorized by this title.

(20 U.S.C. 3921) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1269; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

PARTICIPATION OF TEACHERS FROM PRIVATE SCHOOLS

SEC. 112. The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this title, in order to assure equitable participation of such teachers.

(20 U.S.C. 3922) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1269; reenacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

TITLE II—EDUCATION FOR ECONOMIC SECURITY

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to make financial assistance available to State and local educational agencies, and to institutions of higher education, to improve the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages, and to increase the access of all students to such instruction, and thereby contribute to strengthening the economic security of the United States.

(20 U.S.C. 3961) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1273.

DEFINITION

SEC. 202. As used in this title, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(B) offers a two-year program designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(20 U.S.C. 3962) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1274.

PROGRAM AUTHORIZED

SEC. 203. (a) The Secretary is authorized to make grants to States and to make discretionary grants, in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages.

(b) There are authorized to be appropriated $350,000,000 for the fiscal year 1984, $400,000,000 for the fiscal year 1985, and $350,000,000 for each of the fiscal years 1986, 1987, and 1988 to carry out the provisions of this title.

(20 U.S.C. 3963) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1274; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

ALLOTMENT TO STATES

SEC. 204. (a)(1) From 90 per centum of the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such 90 per centum as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 per centum of the amount available under this subsection in any fiscal year.

(2)(A) The Secretary shall reserve 9 per centum of such amount to carry out section 212, relating to discretionary grants of national significance.

(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(4) The number of children aged five to seventeen, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior; and

(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

(20 U.S.C. 3964) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1274; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

IN-STATE APPORTIONMENT

Sec. 205. (a) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988; 70 per centum of each State's allotment under section 204 of this title shall be used for elementary and secondary education programs in accordance with section 206.

(b) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988; 30 per centum of each State's allotment under section 204 of this title shall be used for higher education programs in accordance with section 207.

(20 U.S.C. 3965) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1275; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 897.

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

Sec. 206. (a) The amount apportioned under section 205(a) from each State's allotment under this title shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

(b)(1) Not less than 70 per centum of the amount available under this section shall be distributed to local educational agencies within the State. Each local educational agency shall use funds distributed under this paragraph for—

(A) the expansion and improvement of training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study the teachers teach; or

(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 210(c), such training, inservice training, and retraining in the fields of computer learning and foreign languages, and the acquisition of instructional materials and equipment related to mathematics and science instruction.

Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics, science, and computer learning programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, and migrants.

(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.

(B) The State educational agency shall distribute 50 per centum of the funds available under this subsection based on the relative number of children aged five to seventeen who—

(i) are from families below the poverty level as determined under section 111(c)(2)(A) of the Elementary and Secondary Education Act of 1965; and

(ii) are from families above the poverty level as determined under section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965;

in the public schools of the local educational agencies within the State.

(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this title so that a substantial number of teachers in the public and private schools in the school district of such agency are served and several grade levels of instruction in such schools are involved in the program.

(c)(1) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 30 per centum of the funds available to the local educational agency under subsection (b) may be used for the purchase of computer and computer-related instructional equipment.

(2) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 15 per centum of the funds available to the local educational agency under subsection (b) may be used to strengthen instruction in foreign languages.

(d) Not less than 20 per centum of the amount available under this section shall be used by the State educational agency—

(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science, foreign language instruction, and computer learning,

(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance,

(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students, and

(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics, science, foreign languages, and computer learning.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall reserve not less than 20 per centum of the amount available under this subsection for special projects in mathematics and science, foreign languages, and computer education to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

(e) Not less than 5 per centum of the amount available under this section may be used by the State educational agency to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified under subsection (b).

(f) Not to exceed 5 per centum of the amount available under this section may be used by the State educational agency for—

(1) the State assessment required by section 208 of this title; and

(2) the costs of administration and evaluation of the program assisted under this title.

(20 U.S.C. 3966) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1275; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 898.

HIGHER EDUCATION PROGRAMS

SEC. 207. (a) The amount apportioned under section 205(b) from each State's allotment under this title shall be used by the State agency for higher education for higher education programs in accordance with the provisions of this section.

(b)(1)(A) Not less than 75 per centum of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

(2) The amount available under this subsection shall be used for—

(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, foreign languages, or computer learning to specialize in the teaching of mathematics, science, foreign languages, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and

(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics, science, foreign languages, and computer learning, including stipends for participation in institutes authorized under title I.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics, science, foreign languages, and computer learning and careers of students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented.

(3) No institution of higher education may receive assistance under paragraphs (2) (B) and (C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

(c)(1) Not less than 20 per centum of the amount available under this section shall be used by the State agency for higher education for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, computer learning and critical foreign languages. In carrying out this subsection, the State agency for higher education shall give special consideration to programs involving consortial arrangements which include local educational agencies.

(2) For the purpose of paragraph (1) of this subsection, critical foreign languages include foreign languages designated by the Secretary pursuant to section 211(d).

(d) Not to exceed 5 per centum of the amount available under this section may be used by the State agency for higher education for—

(1) the State assessment required by section 208 of this title; and

(2) the costs of administration and evaluation of the program assisted under this title incurred by the State higher education agency.

(20 U.S.C. 3967) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1277; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 899.

STATE ASSESSMENT OF MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

SEC. 208. (a) Each State which desires to receive grants under this title shall prepare not later than nine months following the date for which funds under this title become available, a preliminary assessment of the status of mathematics, science, foreign language, and computer learning within the State. Such preliminary assessment shall be made available to all local educational agencies within the State to assist the local educational agencies to carry out the requirements of section 210(b). A final version of such assessment shall be submitted to the Secretary not later than the end of the first year for which funds under this title are made available. Each preliminary assessment shall be prepared after an examination of the local assessments submitted under section 210. Each such assessment shall include a description and a five-year projection of—

(1) the availability of qualified mathematics, science, foreign language, and computer learning teachers at the secondary and postsecondary education levels within the State;

(2) the qualifications of teachers in mathematics, science, foreign languages, and computer learning at the secondary and postsecondary education levels, and the qualifications of teachers at the elementary level to teach mathematics, science, foreign languages, and computer learning;

(3) the State standards for teacher certification, including any special exceptions currently made, for teachers of mathematics, science, foreign languages, and computer learning;

(4) the availability of adequate curricula, instructional materials and equipment, in mathematics, science, foreign languages, and computer learning; and

(5) the degree of access to instruction in mathematics, science, foreign languages, and computer learning of historically underrepresented and underserved individuals and of the gifted and talented.

(b) Each such assessment shall also describe the programs, initiatives, and resources committed or projected to be undertaken within the State to—

(1) improve teacher recruitment and retention;

(2) improve teacher qualifications and skills in the fields of mathematics, science, foreign languages, and computer and computer learning;

(3) improve curricula in mathematics, science, foreign languages, and computer learning including instructional materials and equipment; and

(4) improve access for historically underrepresented and underserved populations, and for the gifted and talented, to instruction in mathematics, science, foreign languages, and computer learning.

(c)(1) Each State assessment shall be developed in consultation with the Governor, the State legislature, State Board of Education, local educational agencies within the State, and representatives of—

(A) vocational secondary schools and area vocational education schools,

(B) public and private institutions of higher education,

(C) teacher organizations,

(D) private industry,

(E) other nonprofit organizations, including libraries, museums, and educational television stations, and professional scientific and mathematics associations, and

(F) private elementary and secondary schools,

within the State.

(2) Each State assessment shall be submitted jointly by the State educational agency and the State agency for higher education.

(d) The Secretary shall prepare and submit to the Congress a summary report of the final version of the assessments submitted by States under subsection (a) as soon as practicable after the receipt of such assessments.

(20 U.S.C. 3968) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1278; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 899.

STATE APPLICATION

Sec. 209. (a) Each State which desires to receive grants under this title shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Each such application shall—

(1) designate the State educational agency for the purpose of programs described in section 206, and the State agency for higher education for programs described in section 207 as the agency or agencies responsible for the administration and supervision of the programs described in sections 206 and 207, as the case may be;

(2) describe the programs for which assistance is sought under the application;

(3) provide assurances that payments will be distributed by the State in accordance with the provisions of sections 206 and 207, as the case may be;

(4) provide procedures—

(A) for submitting applications for programs described in sections 206 and 207 for distribution of payments under this title within the State, and

(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

(5) provide assurances that—

(A) the State will prepare and submit the assessment required under section 208;

(B) in the second year for which funds are available under this title, the State will use funds for purposes consistent with the findings of the State assessment under section 208;

(C) for programs described in section 206, the provisions of sections 210 and 211 will be carried out; and

(D) to the extent feasible, evaluations of the program assisted under this title will be performed;

(6) provide assurances that Federal funds made available under this title for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such Federal funds, be available from non-Federal sources for the purposes described in sections 206 and 207, and in no case supplant such funds from non-Federal sources; and

(7) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this title, and (B) to ensure the verification of the programs assisted under the application.

(c) The Secretary shall expeditiously approve any State plan that meets the requirements of this section.

(20 U.S.C. 3969) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1279; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 899.

LOCAL EDUCATIONAL AGENCY ASSESSMENT

SEC. 210. (a) Each local educational agency which desires to receive a payment from the State educational agency pursuant to section 206 shall provide to the State educational agency an assessment of the local educational agency's need for assistance in—

(1) teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, foreign languages, and computer learning, including a description of the availability and qualifications of teachers in the areas of mathematics, science, foreign language, and computer learning, including the qualifications of teachers at the elementary level to teach in such areas;

(2) improving instructional materials and equipment related to mathematics and science education; and

(3) improving the access to instruction in mathemactics,[1] science, foreign languages, and computer learning of historically underserved and underrepresented individuals and of the gifted and talented, and an assessment of the current degree of access to such instruction of such individuals.

(b) Such assessment shall also describe the types of services to be provided pursuant to the program assisted under section 206, a description of how the services assisted will meet the program needs of the local educational agency, and in the second year for which funds under this title are made available, a description of how the services assisted will address unmet needs described under section 208.

(c) If a local educational agency determines, pursuant to section 206(b)(1), that the agency has met its teacher training, retraining, and inservice training needs in mathematics and science and desires to expend all or a portion of its funds on other activities prescribed in section 206(b)(1)(B), the local educational agency may request the State educational agency to waive such training requirements. If the State educational agency determines that the local educational agency has met such teacher training needs, the State educational agency shall grant the waiver.

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[1] Probably should be "mathematics,".

(20 U.S.C. 3970) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1280; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

SEC. 211. (a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with sections[1] 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

(20 U.S.C. 3971) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1281; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 212. (a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.

(b)(1) From 75 per centum of the amount available under this section in each fiscal year, the Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations for programs of national significance in mathematics and science instruction, computer learning, and foreign language instruction in critical languages. The Secretary shall give special consideration to provide assistance to local educational agencies, or consortia thereof, to establish or improve magnet schools for gifted and talented students. In awarding of grants and cooperative agreements the Secretary shall give special consideration to local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

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[1] Probably should be "section".

(2) The Secretary, from the amount available under paragraph (1) for each fiscal year, shall reserve not to exceed $3,000,000 in each such year for the Director of the National Institute of Education for the purpose of conducting evaluation and research activities. Such evaluation and research activities shall include—

(A) a policy analysis of alternative methods to improve instruction in mathematics and science;

(B) an annual evaluation of the programs assisted under this title; and

(C) research on improving teacher training, retraining, inservice training, and retention, as well as the development of curriculum and materials in the fields of mathematics and science.

One-half of the funds reserved under this paragraph shall be used for the research activities described in clause (C).

(c) From 25 per centum of the amount available in each fiscal year, the Secretary shall make grants to institutions of higher education for the improvement and expansion of instruction in critical foreign languages.

(d) In determining which languages are critical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

(20 U.S.C. 3972) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1281; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

PAYMENTS

SEC. 213. (a) From the amounts appropriated under section 203(b), the Secretary shall pay, in accordance with the provisions of this title, the costs of the programs and activities described in the application approved under section 209, and the costs of programs of national significance under section 212.

(b) Payments under this title shall be made as soon after approval of the application as practicable.

(20 U.S.C. 3973) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1282; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

TITLE III—NATIONAL SCIENCE FOUNDATION PROGRAM FOR PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

SHORT TITLE

SEC. 301. This title may be cited as the "Partnerships in Education for Mathematics, Science, and Engineering Act".

(20 U.S.C. 3981, note) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1283.

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community.

(20 U.S.C. 3981) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1283.

DEFINITIONS

SEC. 303. As used in this title—

(1) the term "applicant" means with respect to activities described in section 305(a) an institution of higher education and the other participants described in paragraph (3) of section 305(a), and with respect to activities described in section 305(b) a local educational agency and the other participants described in paragraph (3) of section 305(b);

(2) the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and meaning given that term by section 1201(a) of the Higher Education Act of 1965;

(3) the term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 3982) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1283; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

PROGRAM AUTHORIZED

SEC. 304. (a) The Secretary is authorized, in accordance with the provisions of this title, to make grants to applicants to pay the Federal share of the costs of the activities described in section 305.

(b) There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986, 1987, and 1988, to carry out the provisions of this title.

(20 U.S.C. 3983) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1284; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900, 901.

AUTHORIZED ACTIVITIES

SEC. 305. (a)(1) An applicant may use payments received under this title in any fiscal year for higher education programs and activities described in this subsection.

(2) Grants under this subsection may be used for partnership in education programs—

(A) for the improvement of instruction in mathematics, science, computer science, and engineering education at the postsecondary level;

(B) for awarding scholarships to students at institutions of higher education in the fields of mathematics, science, computer science, and engineering;

(C) for the operation of faculty exchange programs by the institutions of higher education and business concerns within the State;

(D) for research in the fields of mathematics, science, computer science, and engineering;

(E) for the acquisition, rehabilitation, and renovation of equipment and instrumentation for use in instruction in the fields of mathematics, science, computer science, and engineering; and

(F) to promote public understanding of science, mathematics, and computer science.

(3) Education partnerships under this subsection may include institutions of higher education, business concerns, nonprofit private organizations, local educational agencies, professional mathematic and scientific associations, museums, libraries, educational television stations, and if the State so desires, appropriate State agencies.

(b)(1) An applicant may use payments received under this title in any fiscal year for programs and activities described in this subsection.

(2) A local educational agency may carry out an elementary and secondary school partnership in education program under which—

(A) elementary and secondary school teachers in the schools of local educational agencies who teach mathematics, science, or computer science are made available to local business concerns and business concerns with establishments located in the community to serve in such concerns or establishments;

(B) personnel of local business concerns and business concerns with establishments located in the community serve as consultants, lecturers, teaching assistants, or teachers of mathematics, science, or computer science in the elementary and secondary schools within the State;

(C) training and retraining is furnished to elementary and secondary school teachers of mathematics, science, and computer science under a cooperative arrangement between the State or local educational agency and appropriate business concerns;

(D) secondary school students observe, participate, and work in local business concerns and business concerns with establishments located in the community; and

(E) computer clubs and extracurricular activities involving modern technologies are established in elementary and secondary schools.

(3) Partnerships under this subsection may include local educational agencies, business concerns, nonprofit private organizations, institutions of higher education, professional mathematic and scientific associations, museums, libraries, educational television stations, and, if the State so desires, appropriate State agencies.

(20 U.S.C. 3984) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1284.

APPLICATION

SEC. 306. (a) Any applicant which desires to receive a grant under this title shall submit an application approved under section 307 to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this title is sought;

(2) provide assurances that not more than 5 per centum of the amount received by the applicant in any fiscal year may be expended on administrative expenses;

(3) with respect to each program for which assistance is sought, provide assurances that—

(A) 30 per centum of the funds for each such project will be furnished by business concerns within the community;

(B) 20 per centum of the funds will be supplied by—

(i) the State,

(ii) the institution of higher education or the local educational agency, as the case may be, participating in the program; and

(iii) the other parties participating in the program;

(C) no stipend will be paid directly to employees of a profitmaking business concern; and

(D) teachers participating in the exchange program may not be employed by the participating business concern with which the teacher served within three years after the end of the exchange program unless the teacher repays the full cost of the exchange program to the State and local educational agency, as the case may be; and

(4) provide assurances that whenever the program for which assistance is sought includes scholarships, the scholarships be awarded to undergraduate students at institutions of higher education within the State who wish to pursue a course of study in mathematics or science, engineering or computer sci-

ence, and that each student awarded a scholarship under this title will receive a stipend which shall not exceed the cost of tuition at the institution of higher education plus a stipend of not to exceed $750 for each academic year of study for which the scholarship is awarded;

(5) set forth policies and procedures to assure that whenever the application includes a local educational agency, to the extent consistent with the number and location of children in the school district of such agency who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted under this title;

(6) provide assurances that consideration is given to programs and activities designed to meet the needs of underrepresented and underserved populations;

(7) provide assurances that in the consideration of applications submitted under section 307(a) that equitable consideration is given to applications submitted by private and public institutions of higher education; and

(8) provide such additional assurances as the Secretary determines essential to ensure compliance with the requirements of this title.

(b) A regional consortium of applicants in two or more States may file a joint application under the provisions of subsection (a) of this section.

(20 U.S.C. 3985) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1285; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

SUBMISSION OF APPLICATIONS

SEC. 307. Each applicant within a State which desires to receive a grant under this title shall submit the application prepared in accordance with section 306 to the State agency on[1] higher education or the State educational agency, as the case may be, for approval and shall submit the approved application to the Foundation under section 306. Each such application shall be submitted jointly by the local educational agency in the case of activities described in section 305(a), or an institution of higher education in the case of activities described in section 305(b), and each business concern or other party that is to participate in the program for which assistance is sought.

(20 U.S.C. 3986) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1286.

APPROVAL OF APPLICATIONS

SEC. 308. (a)(1) The Secretary shall establish criteria for approval of applications under this title.

(2) No application may be approved by the Secretary unless the State educational agency or the State agency for higher education, as the case may be, determines that the application is consistent with State plans for elementary and secondary education or State plans for higher education, as the case may be, in the State.

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[1] Probably should be "for".

(b) The Secretary shall adopt approval procedures designed to assure that there is equitable distribution of grants among the States.

(20 U.S.C. 3987) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1286; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

PAYMENTS; FEDERAL SHARE; LIMITATION

Sec. 309. (a)(1) The Secretary shall pay, to each applicant having an application approved under section 308, the Federal share of the cost of the program described in the application.

(2) The Federal share for each fiscal year shall be 50 per centum.

(3) The non-Federal share of payments under this title may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Not more than 15 per centum of the funds appropriated under this title in any fiscal year may be paid to applicants in any single State.

(20 U.S.C. 3988) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1286; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900.

TITLE IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE

PRESIDENTIAL AWARDS

Sec. 401. (a) The President is authorized to make Presidential Awards for Teaching Excellence in Mathematics and Science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

(b) Each year the President is authorized to make one hundred awards under subsection (a) of this section. In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(20 U.S.C. 4001) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1287.

ADMINISTRATIVE PROVISIONS

Sec. 402. The President shall carry out the provisions of this title, including the establishment of the selection procedures, after consultation with the Secretary of Education, the Director of the National Science Foundation, and other appropriate officials of Federal agencies.

(20 U.S.C. 4002) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1287.

AUTHORIZATION OF APPROPRIATIONS

Sec. 403. (a) Funds to carry out this title for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this title shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986. Not more than $1,000,000 are authorized to be available to carry out this title.

(b) Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this title, for administrative expenses, for necessary travel by teachers selected under this title, and for special activities related to carrying out the provisions of this title.

(20 U.S.C. 4003) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1287; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 901.

TITLE V—ASBESTOS SCHOOL HAZARD ABATEMENT

SEC. 501. This title may be cited as the "Asbestos School Hazard Abatement Act of 1984".

(20 U.S.C. 4011 note) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1287.

FINDINGS AND PURPOSES

SEC. 502. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and stu-

dents may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this title to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this title to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(20 U.S.C. 4011) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1287.

ASBESTOS HAZARD ABATEMENT PROGRAM

SEC. 503. (a)(1)[1] There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this title referred to as "Program").

(b) The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local agencies and to other institutions for the purpose of carrying out activities described in this title;

(3) the development within forty-five days of enactment of this title of an interim or final application form, which shall be distributed promptly to local educational agencies; and

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[1] So in law.

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 505.

(20 U.S.C. 4012) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1288.

STATE PLANS

SEC. 504. (a) Not later than three months after the date of enactment of this title, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials);

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in subparagraph (B)[1] were undertaken.

(b)(1) Not later than six months after the date of enactment of this title, and annually thereafter, the Governor of each State shall:

(A) submit to the Administrator and the Secretary of the Department of Education a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement;

(B) forward to the Administrator and the Secretary of the Department of Education for each candidate for abatement all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 503(b)(3) and section 505; and

(C) forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in accordance with subsection (b)(3).

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

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[1] Probably should be "paragraph (2)".

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any other factor that demonstrates that the local educational agency has limited financial resources.

(c) Not later than nine months after the submission of the plan described in subsection (a), and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.

(20 U.S.C. 4013) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1289.

FINANCIAL ASSISTANCE

SEC. 505. (a) There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this Act referred to as the "Assistance Program"), which shall be administered in accordance with this section.

(b)(1) Applications for financial assistance shall be submitted by a local educational agency, to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 504(b)(2).

(2) Pursuant to section 504, applications shall be submitted, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to section 505(c)(2) and propose financing pursuant to the criteria of section 504(b)(4).

(3) Within sixty days of receipt of the information described in section 504(b)(1), the Secretary of the Department of Education shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.

(c)(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 504(b)(2);

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant is cost-effective compared to other techniques including management of material containing asbestos.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider—

(A) the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4); and

(B) the report, if any, of the Secretary of Education pursuant to section 504(b)(5).

(d) In no event shall financial assistance be provided under this title to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education.

(e)(1) An applicant for financial assistance may be granted a loan of up to 100 per centum of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 per centum of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the general fund; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g)(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator within the five-year period beginning on the effective date of this title.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 506(b)(2)(B); and

(ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 507 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) on which abatement action was completed prior to January 1, 1984.

(B)[1] Except as provided in section 512(b)(1) in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

(20 U.S.C. 4014) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1290.

SEC. 506. (a) The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this title.

(b) The Administrator shall also establish—

(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505 for—

(A) abating asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment of removal activities were undertaken; and

(2) within ninety days, standards for determining—

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[1] So in law.

(A) which contractors are qualified to carry out the activities referred to in paragraph (1), and

(B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

(3) nothing[1] contained in this title shall be construed, interpreted or applied to diminish in any way the level of protection required under State or Federal worker protection laws.

(c) In order to effectuate the purposes of this title, the Administrator may also adopt such other procedures, standards and regulations as the Administrator deems necessary, including—

(1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this title.

(20 U.S.C. 4015) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1290.

ANNUAL REPORT

SEC. 507. During each of the ten calendar years after the year in which this title is enacted, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 505 of this title. The report shall—

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and

(6) estimate the number of schools still in need of assistance.

(20 U.S.C. 4016) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1293.

SEC. 508. (a)(1) As a condition of the award of any financial assistance under section 505, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.[2]

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[1] So in law. Probably should be an undesignated flush sentence commencing with "nothing".

[2] Probably should be "section.".

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this title from the persons identified by the Attorney General as being liable for such costs.

(20 U.S.C. 4017) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1293.

SEC. 509. No State or local educational agency receiving assistance under this title may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(20 U.S.C. 4018) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1294.

SEC. 510. Except as otherwise provided in section 508, nothing in this title shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(20 U.S.C. 4019) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1294.

SEC. 511. For purposes of this title—

(1) the term "asbestos" means—

(A) chrysotil, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "threat" or "hazard" means that an asbestos material is friable or easily damaged, or within each[1] reach of students or employees or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

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[1] Probably should be "easy".

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or[2] school" means—

(A) any elementary or secondary school as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965 owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Administrator" means the Administrator of the Environmental Protection Agency, or the Administrator's designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

(20 U.S.C. 4020) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1294.

SEC. 512. (a)(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $50,000,000 for the fiscal year ending on September 30, 1984, $50,000,000 for the fiscal year ending on September 30, 1985, and $100,000,000 for each of the five succeeding fiscal years.

(2) The sums appropriated under this title shall remain available until expended.

(b)(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this title or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this title, up to 10 per centum shall be reserved during the fiscal year ending September 30, 1984, and up to 5 per centum for the fiscal

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[2] Probably should be followed by "secondary".

year ending September 30, 1985, for the administration of this title and for programs including, but not limited to, the following:

(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and

(D) the development of a comprehensive testing and technical assistance program.

(20 U.S.C. 4021) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1295.

TITLE VI—EXCELLENCE IN EDUCATION PROGRAM

SHORT TITLE

SEC. 601. This title may be cited as the "Excellence in Education Act".

(20 U.S.C. 4031 note) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1295.

STATEMENT OF PURPOSE

SEC. 602. It is the purpose of this title to make awards to local educational agencies, after a competitive selection process, in order to carry out programs of excellence in individual schools of such agencies designed to achieve excellence in education, which—

(1) demonstrate successful techniques for improving the quality of education,

(2) can be disseminated and replicated, and

(3) are conducted with the participation of school principals, schoolteachers, parents, and business concerns in the locality.

(20 U.S.C. 4031) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1295.

DEFINITIONS

SEC. 603. For the purpose of this title—

(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

(3) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) The term "State educational agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

(20 U.S.C. 4032) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1296.

SCHOOL EXCELLENCE AWARDS AUTHORIZED

SEC. 604. (a) The Secretary is authorized, in accordance with the provisions of this title, to make awards to local educational agencies for school excellence programs which are consistent with the purpose of this title.

(b)(1) There are authorized to be appropriated $16,000,000 for each of the fiscal year 1984 and each of the succeeding fiscal years ending prior to October 1, 1988, to carry out the provisions of this title.

(2) From the amount appropriated in each fiscal year, the Secretary shall reserve $3,000,000 in each fiscal year "in which the appropriations for that year exceed $15,000,000" to carry out the provisions of section 607.

(3) From the amount appropriated in each fiscal year, the Secretary shall reserve $1,000,000 in each fiscal year "in which the appropriations for that year exceed $15,000,000" to carry out the provisions of section 608.

(20 U.S.C. 4033) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1296; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 900; amended Sept. 30, 1986, P.L. 99-425, sec. 701, 100 Stat. 977.

SELECTION OF SCHOOLS FOR AWARDS

SEC. 605. (a)(1) The Secretary is authorized to establish, in accordance with the provisions of this section, criteria for the selection of schools to receive awards under this title. Each local educational agency desiring to participate in the awards program authorized by this title shall submit a proposal nominating each specific school of that agency for school improvement activities designed to carry out the purpose of this title. Each such submission shall be made to the chief State school officer of the State in which the local educational agency is located.

(2) The criteria required by paragraph (1) of this subsection shall include standards for each local educational agency to nominate schools of that agency—

(A) which have the potential to experiment with standards of quality; and

(B) which show promise of demonstrating that the school will carry out well-planned, creative, or innovative activities designed to carry out the purposes of this title in a successful manner.

(3) Each proposal submitted under this subsection shall contain—

(A) a description of the activities which will be conducted in the school nominated,

(B) assurances that the school to be nominated will carry out the activities so described, and

(C) such other information as may be necessary to carry out paragraph (2) of this subsection.

(b)(1)(A) The chief State school officer of each State shall in each fiscal year from the proposed nominations made pursuant to subsection (a) select twenty-five schools for submission to the Secretary.

(B) In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the chief educational officer of such jurisdiction shall nominate five schools in accordance with this subsection.

(2) In selecting schools from proposed nominations submitted under subsection (a), the chief State school officer shall assure a fair and equitable distribution of schools within the State, after considering—

(A) all categories of elementary and secondary schools within the State, including elementary schools, junior high schools, secondary schools, vocational-technical schools, or any combination of two or more of the schools;

(B) socioeconomic conditions in the State;

(C) geographic distribution within the State;

(D) school size;

(E) the size and location of the community in which the school is located;

(F) the local governmental arrangements between the government and the local educational agency making the nomination;

(G) the potential for the proposed project to successfully demonstrate techniques for improving the quality of education which can be disseminated and replicated; and

(H) such other relevant factors as the Secretary may prescribe.

(3) Each State shall submit to the Secretary the school nominations made in accordance with this subsection. Each such submission may include such additional information as the chief State school officer (the chief educational officer as prescribed in paragraph (1)(B)), and the local educational agency concerned deem appropriate.

(c)(1) The Secretary shall select not more than five hundred schools from among the nominations submitted pursuant to subsection (b) of this section. The selection under this subsection shall be made by the Secretary after an impartial review panel has considered each submission. The review and selection shall be based upon the factors described in subsection (b)(2) and in accordance with uniform criteria developed by the Secretary.

(2) In making the selections under paragraph (1), the Secretary shall give priority to proposals which have the highest potential for successfully demonstrating techniques to improve the quality of education and which can be disseminated and replicated. In addition the Secretary shall give priority to proposals which have as their purposes—

(A) modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

(B) the elimination of excessive electives and the establishment of increased graduation requirements in basic subjects;

(C) improvement in student attendance and discipline through the demonstration of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

(D) demonstrations designed to increase learning time for students;

(E) experimentation providing incentives to teachers, and teams of teachers for outstanding performance, including financial awards, administrative relief such as the removal of paperwork and extra duties, and professional development;

(F) demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization, and improved career guidance and counseling; or

(G) new and promising models of school-community and school-to-school relationships including the use of nonschool personnel to alleviate shortages in areas such as math, science, and foreign language instruction, as well as other partnerships between business and education, including the use of equipment.

(20 U.S.C. 4034) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1296.

AMOUNT AND CONDITIONS OF AWARDS

SEC. 606. (a)(1) A school award made to a local educational agency pursuant to this title may not exceed $25,000 in any fiscal year or a total of $40,000.

(2) The amount of each individual school award made pursuant to this title shall be determined by the Secretary based upon the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

(b) Awards made under this title may not be made for more than two school years. No individual school may be eligible for any additional award under this title.

(20 U.S.C. 4035) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1298.

SPECIAL SCHOOL AWARDS

SEC. 607. (a) From the amount reserved under section 604(b)(2) in any fiscal year, the Secretary is authorized to make awards to schools nominated in accordance with the provisions of section 605 to pay the Federal share of the activities described in the proposal if the local educational agency provides further assurances that funds from the private sector will be contributed for carrying out the activities for which assistance is sought.

(b) For purposes of this section, the Federal share for each fiscal year shall be not less than 67⅔ per centum nor more than 90 per centum. The Secretary shall set the Federal share for categories of school awards based upon uniform criteria established by the Secretary.

(20 U.S.C. 4036) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1298.

RESEARCH, EVALUATION, DISSEMINATION, AND MONITORING ACTIVITIES

SEC. 608. (a) From the amount set aside under section 604(b)(3), the Secretary shall conduct research, evaluation, and dissemination activities to assure that exemplary projects and practices which are developed with assistance provided under this title are made available to local educational agencies throughout the United States.

(b) The Secretary shall use such amount of the funds reserved pursuant to section 604(b)(3) as is necessary to carry out the provisions of this subsection. The Secretary shall establish an independent panel to monitor the success of the programs assisted by this title in achieving the national objectives in improving instruction and the achievement of the students.

(20 U.S.C. 4037) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1298.

TITLE VII—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There are authorized to be appropriated $75,000,000 for each of the fiscal years 1984, 1985, 1986, 1987, and 1988 to carry out the provisions of this title.

(20 U.S.C. 4051) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1299; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 901.

ELIGIBILITY

SEC. 702. A local educational agency is eligible to receive assistance under this title if the local educational agency—

(1) has received $1,000,000 less in the first fiscal year after the repeal of the Emergency School Assistance Act by section 5[1] of the Omnibus Budget Reconciliation Act of 1981 as a result of the repeal of that Act; or

(2) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

(3) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

(20 U.S.C. 4052) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1299.

STATEMENT OF PURPOSE

SEC. 703. It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

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[1] References are apparently to the Emergency School Aid Act and to section 587(a) of The Omnibus Budget Reconciliation Act of 1981.

(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

(20 U.S.C. 4053) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1299; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 901.

PROGRAM AUTHORIZED

SEC. 704. The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(20 U.S.C. 4054) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1299.

DEFINITION

SEC. 705. For the purpose of this title the term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(20 U.S.C. 4055) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1300.

USES OF FUNDS

SEC. 706. Grants made under this title may be used by eligible local educational agencies for—

(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

(20 U.S.C. 4056) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1300; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 902.

APPLICATIONS AND REQUIREMENTS

SEC. 707. (a) Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

(b) As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

(1) to use funds made available under this title for the purposes specified in section 703;

(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;

(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in designing or operating extracurricular activities for students; and

(6) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

(c) No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances contained in clauses (3), (4), and (5)[1] will be met.

(20 U.S.C. 4057) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1300.

SPECIAL CONSIDERATION

Sec. 708. In approving applications under this title the Secretary shall give special consideration to—

(1) the recentness of the implementation of the approved plan or modification thereof;

(2) the proportion of minority group children involved in the approved plan;

(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

(20 U.S.C. 4058) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1301.

PROHIBITIONS

Sec. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

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[1] Probably refers to clauses (3), (4), and (5) of subsection (b).

(20 U.S.C. 4059) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1301; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 902.

LIMITATION ON PAYMENTS

SEC. 710. (a) No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

(b) No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

(c) No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of the Education Consolidation and Improvement Act of 1981 in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title, except that a State may reduce the amount of assistance received under such chapter 2 if the amount is attributable to clause (3) of section 577 (as in effect prior to the date of enactment of section 502[1] of the Education for Economic Security Act) but only to the extent the amount is so attributable. The Secretary may waive the prohibition against the reduction of assistance received under chapter 2 and permit such a reduction if the State demonstrates that the assistance under such chapter 2 is not necessary to the local education[2] agency concerned.

(20 U.S.C. 4060) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1301.

PAYMENTS

SEC. 711. The Secretary shall pay to each local educational agency having an application under this title the amount set forth in the application. Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.

(20 U.S.C. 4061) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1301; amended October 30, 1984, P.L. 98-558, sec. 702, 98 Stat. 2900.

WITHHOLDING

SEC. 712. The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

(20 U.S.C. 4062) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1302.

TITLE VIII—THE EQUAL ACCESS ACT

SHORT TITLE

SEC. 801. This title may be cited as "The Equal Access Act".

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[1] Reference is apparently to section 702 of this Act.

[2] Probably should be "educational".

(20 U.S.C. 4071 note) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1302.

DENIAL OF EQUAL ACCESS PROHIBITED

SEC. 802. (a) It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.

(c) Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—

(1) the meeting is voluntary and student-initiated;

(2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;

(3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;

(4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and

(5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

(d) Nothing in this title shall be construed to authorize the United States or any State or political subdivision thereof—

(1) to influence the form or content of any prayer or other religious activity;

(2) to require any person to participate in prayer or other religious activity;

(3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) to sanction meetings that are otherwise unlawful;

(6) to limit the rights of groups of students which are not of a specified numerical size; or

(7) to abridge the constitutional rights of any person.

(e) Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this title shall be construed to authorize the United States to deny or withhold Federal financial assistance to any school.

(f) Nothing in this title shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

(20 U.S.C. 4071) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1302.

DEFINITIONS

SEC. 803. As used in this title—

(1) The term "secondary school" means a public school which provides secondary education as determined by State law.

(2) The term "sponsorship" includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

(3) The term "meeting" includes those activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum.

(4) The term "noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

(20 U.S.C. 4072) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1303.

SEVERABILITY

SEC. 804. If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the title and the application to other persons or circumstances shall not be affected thereby.

(20 U.S.C. 4073) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1304.

CONSTRUCTION

SEC. 805. The provisions of this title shall supersede all other provisions of Federal law that are inconsistent with the provisions of this title.

(20 U.S.C. 4074) Enacted August 11, 1984, P.L. 98-377, 98 Stat. 1304.

Public Law 95-134

(Consolidated Grants to Insular Areas)

An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

(48 U.S.C. 1469a) Enacted Oct. 15, 1977, P.L. 95-134. sec. 501, 91 Stat. 1164, 1165.

Allen J. Ellender Fellowship Program

(Public Law 92-506)

JOINT RESOLUTION To provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

Whereas Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people; and

Whereas Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators; and

Whereas it is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Commissioner of Education (hereinafter referred to as the "Commissioner") is authorized to make grants in accordance with the provisions of this joint resolution to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

(b) Grants received under this joint resolution shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this joint resolution by such students and teachers shall be known as Allen J. Ellender fellowships.

(—U.S.C.—) Enacted October 19, 1972, P.L. 92-506, sec. 1, 86 Stat. 907.

Sec. 2. (a) No grant under this joint resolution may be made except upon an application at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require.

(b) Each such application shall contain provisions to assure—

(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers;

(2) that not more than one secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

(3) that every effort will be made to achieve participation of students and teachers from rural and small town areas, as well as from urban areas, in the program; and

(4) the proper disbursement of the funds of the United States received under this joint resolution.

(—U.S.C.—) Enacted October 19, 1972, P.L. 92-506, sec. 2, 86 Stat. 908; amended April 21, 1976, P.L. 94-277, secs. 1, 3, 90 Stat. 399.

Sec. 3. (a) Payments under this joint resolution may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

(b) The Comptroller General of the United States or any of his duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this joint resolution.

(—U.S.C.—) Enacted October 19, 1972, P.L. 92-506, sec. 3, 86 Stat. 908.

Sec. 4. For the purpose of this joint resolution, the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education beyond grade twelve.

(—U.S.C.—) Enacted October 19, 1972, P.L. 92-506, sec. 4, 86 Stat. 908.

Sec. 5. There are authorized to be appropriated $1,500,000 for the fiscal year 1984, $1,500,000 for the fiscal year 1985, $2,000,000 for the fiscal year 1986, $2,000,000 for the fiscal year 1987, $2,500,000 for the fiscal year 1988, and $2,500,000 for the fiscal year 1989 to carry out the provisions of this joint resolution.

(—U.S.C.—) Enacted October 19, 1972, P.L. 92-506, sec. 5, 86 Stat. 908; amended April 21, 1976, P.L. 94-277, sec. 2, 90 Stat. 399; amended October 12, 1976, P.L. 94-482, Title III, Part B, sec. 322, 90 Stat. 2217; amended June 12, 1984, P.L. 98-312, sec. 3, 98 Stat. 234.

Anti-Drug Abuse Act of 1986

TITLE IV—DEMAND REDUCTION

* * * * * * *

Subtitle B—Drug-Free Schools and Communities Act of 1986

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Schools and Communities Act of 1986".

SEC. 4102. FINDINGS.

The Congress finds that:

(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

SEC. 4103. PURPOSE.

It is the purpose of this subtitle to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

(3) to States for development, training, technical assistance, and coordination activities;

(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

PART 1—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

SEC. 4111. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out this subtitle, there are authorized to be appropriated $200,000,000 for fiscal year 1987 and $250,000,000 for each of the fiscal years 1988 and 1989.

(b) Appropriations for any fiscal year for payments made under this subtitle in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(c) Funds appropriated for any fiscal year under this subtitle shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

(d) Notwithstanding any other provision of this subtitle, no authority to enter into contracts or financial assistance agreements under this subtitle shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 4112. RESERVATIONS AND STATE ALLOTMENTS.

(a) From the sums appropriated or otherwise made available to carry out this subtitle for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian youth under section 4133;

(3) 0.2 percent for programs for Hawiian[1] natives under section 4134;

(4) 8 percent for programs with institutions of higher education under section 4131;

(5) 3.5 percent for Federal activities under section 4132; and

(6) 4.5 percent for regional centers under section 4135.

(b)(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within two years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

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[1] So in original. Probably should be "Hawaiian".

(3) For purposes of this subsection, the term "State" means any of the fifty States, the District of Columbia, and Puerto Rico.

(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

PART 2—STATE AND LOCAL PROGRAMS

SEC. 4121. USE OF ALLOTMENTS BY STATES.

(a) An amount equal to 30 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the chief executive officer of such State for State program[1] in accordance with section 4122.

(b) An amount equal to 70 percent of the total amount paid to a State from its allotment under section 4112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 4124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 4125.

SEC. 4122. STATE PROGRAMS.

(a) Not more than 50 percent of the funds available for each fiscal year under section 4121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education, parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

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[1] So in original. Probably should be "programs".

(6) other drug abuse education and prevention activities, consistent with the purposes of this subtitle.

(b)(1) Not less than 50 percent of the funds available for each fiscal year under section 4121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups community action agencies, and other community-based organizations) to carry out such services.

(2) For purposes of this subsection, the term "high risk youth" means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

(A) is a school dropout;
(B) has become pregnant;
(C) is economically disadvantaged;
(D) is the child of a drug or alcohol abuser;
(E) is a victim of physical, sexual, or psychological abuse;
(F) has committed a violent or delinquent act;
(G) has experienced mental health problems;
(H) has attempted suicide; or
(I) has experienced long-term physical pain due to injury.

SEC. 4123. STATE APPLICATIONS.

(a) In order to receive an allotment under section 4112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 4121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 4121(b) in accordance with the requirements of this part.

(b) The application submitted by each State under subsection (a) shall—

(1) cover a period of three fiscal years;

(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

(5) contain assurances that there is compliance with the specific requirements of this part;

(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including the State agency which administers the Alcohol,

Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools; and

(8) provide for an annual evaluation of the effectiveness of programs assisted under this part.

SEC. 4124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

(a) Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 4121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 4126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative numbers of children in the school-age population within such areas. Any amount of the funds made available for use in any area remaining unobligated for more than one year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

(b) Each State educational agency shall use not more than 10 percent of the amounts available under section 4121(b) for each fiscal year for such activities as—

(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

(3) demonstration projects in drug abuse education and prevention;

(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 4121(b).

SEC. 4125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

(a) Any amounts made available to local or intermediate educational agencies or consortia under section 4124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and pre-

vention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent or other adult counselors and reformed abusers;

(5) programs of drug abuse treatment and rehabilitation referral;

(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

(b) A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 4126 approved by the State educational agency.

SEC. 4126. LOCAL APPLICATIONS.

(a)(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate educational agency or consortium shall submit an application to the State educational agency for approval.

(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

(D) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

(E) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

(F) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

(G) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

(H) provide assurances of compliance with the provisions of this part;

(I) agree to keep such records and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

(J) include such other information and assurances as the State educational agency reasonably determines to be necessary.

PART 3—NATIONAL PROGRAMS

SEC. 4131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a)(1) From sums reserved by the Secretary under section 4112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher edu-

cation or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

(b) Training grants shall be available for—

(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention;

(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

(c) Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

(d) Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

(e) In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 4135.

SEC. 4132. FEDERAL ACTIVITIES.

(a) From sums reserved by the Secretary under section 4112(a)(5), the Secretary shall carry out the purposes of this section.

(b) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall—

(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dis-

semination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act (as amended by this Act);

(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participating of entertainment personalities and athletes who are recognizable role models for many young people;

(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

(c) From the funds available to carry out this section, the Secretary shall make available $500,000 to the Secretary of Health and Human Services for the clearinghouse established under section 509 of the Public Health Service Act (as amended by this Act).

(d) The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the nature and effectiveness of existing Federal, State, and local programs of drug abuse education and prevention and shall submit a report of the findings of such study to the President and to the appropriate committees of the Congress not later than one year after the date of the enactment of this Act.

SEC. 4133. PROGRAMS FOR INDIAN YOUTH.

(a)(1) From the funds reserved pursuant to section 4112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection.

(2) The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title.

(3) The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for

Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

(4) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this subtitle.

(b) * * *

[Contained amendments to Indian Elementary and Secondary School Assistance Act, and title XI of the Education Amendments of 1978.]

SEC. 4134. PROGRAMS FOR HAWAIIAN NATIVES.

(a) From the funds reserved pursuant to section 4112(a)(3), the Secretary shall enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this subtitle for the benefit of Hawaiian natives.

(b) For the purposes of this section, the term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

SEC. 4135. REGIONAL CENTERS.

The Secretary shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long term effective drug and alcohol abuse programs, including long range technical assistance, evaluation, and followup on such training;

(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

(3) assist local educational agencies and institutions of higher education in developing appropriate pre-service and in-service training programs for educational personnel; and

(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

PART 4—GENERAL PROVISIONS

SEC. 4141. DEFINITIONS.

(a) Except as otherwise provided, the terms used in this subtitle shall have the meaning provided under section 595 of the Education Consolidation and Improvement Act of 1981.

(b) For the purposes of this subtitle, the following terms have the following meanings:

(1) The term "drug abuse education and prevention" means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

(2) The term "illicit drug use" means the use of illegal drugs and the abuse of other drugs and alcohol.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "school-age population" means the population aged five through seventeen (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(5) The term "school dropout" means an individual aged five through eighteen who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(6) The term "State" means a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marina Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

(7) The terms "institution of higher education", "secondary school", and "nonprofit" have the meanings provided in section 1001 of the Elementary and Secondary Education Act of 1965 in effect prior to October 1, 1981.

(8) The term "consortium" (except in section 4131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

SEC. 4142. FUNCTIONS OF THE SECRETARY OF EDUCATION.

(a) The Secretary shall be responsible for the administration of the programs authorized by this subtitle.

(b) Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this subtitle.

SEC. 4143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

(a) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this subtitle.

(b) To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part 2 who are enrolled in private nonprofit elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this subtitle.

(c) If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 4144. MATERIALS.

Any materials produced or distributed with funds made available under this subtitle shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 4125(a).

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SEC. 4212. INDIAN EDUCATION PROGRAMS.

(a) Pilot Programs.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot programs there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

(b) Use of Funds.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

(25 U.S.C. 2432) Enacted Oct. 27, 1986, P.L. 99-570, 100 Stat. 3207-144.

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Handicapped Children's Protection Act of 1986

Public Law 99-372

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GAO STUDY OF ATTORNEYS' FEES PROVISION

SEC. 4. (a) The Comptroller General of the United States, through the General Accounting Office, shall conduct a study of the impact of the amendments to the Education of the Handicapped Act made by section 2 of this Act. Not later than June 30, 1989, the Comptroller General shall submit a report containing the findings of such study to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. The Comptroller General shall conduct a formal briefing for such Committees on the status of the study not later than March 1, 1988. Such report shall include the information described in subsection (b).

(b) The report authorized under subsection (a) shall include the following information:

(1) The number, in the aggregate and by State, of written decisions under sections 615 (b)(2) and (c) transmitted to State advisory panels under section 615(d)(4) for fiscal years 1984 through 1988, the prevailing party in each such decision, and the type of complaint. For fiscal year 1986, the report shall designate which decisions concern complaints filed after the date of the enactment of this Act.

(2) The number, in the aggregate and by State, of civil actions brought under section 615(e)(2), the prevailing party in each action, and the type of complaint for fiscal years 1984 through 1988. For fiscal year 1986 the report shall designate which decisions concern complaints filed after the date of enactment.

(3) Data, for a geographically representative selective sample of States, indicating (A) the specific amount of attorneys' fees, costs, and expenses awarded to the prevailing party, in each action and proceeding under section 615(e)(4)(B) from the date of the enactment of this Act through fiscal year 1988, and the range of such fees, costs, and expenses awarded in the actions and proceedings under such section, categorized by type of complaint and (B) for the same sample as in (A) the number of hours spent by personnel, including attorneys and consultants, involved in the action or proceeding, and expenses incurred by the parents and the State educational agency and local educational agency.

(4) Data, for a geographically representative sample of States, on the experience of educational agencies in resolving complaints informally under section 615(b)(2), from the date of the enactment of this Act through fiscal year 1988.

EFFECTIVE DATE

SEC. 5. The amendment made by section 2 shall apply with respect to actions or proceedings brought under section 615(e) of the

Education of the Handicapped Act after July 3, 1984, and actions or proceedings brought prior to July 4, 1984, under such section which were pending on July 4, 1984.

(20 U.S.C. 1415) Enacted Aug. 5, 1986, P.L. 99-372, sec. 4, 100 Stat. 797-798.

Human Services Reauthorization Act of 1986

Public Law 99-425

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TITLE IX—BEGINNING READING INSTRUCTION STUDY AND LISTING REQUIRED

SEC. 901. STUDY AND LISTING REQUIRED.

(a) STUDY.—The Secretary of Education (hereinafter in this title referred to as the "Secretary") shall conduct a study in order to compile a complete list, by name, of beginning reading instruction programs and methods, including phonics, indicating—

(1) the average cost per pupil of such programs and methods; and

(2) whether such programs and methods do or do not present well-designed instruction as recommended in the report of the Commission on Reading entitled "Becoming a Nation of Readers".

The listing required by this section shall be written in such a way as to be understandable to the general public.

(b) PUBLIC COMMENT.—In carrying out the study required by this section, the Secretary shall solicit public comments on beginning reading programs and methods.

(c) REPORTS.—The Secretary shall prepare and submit to the Congress such interim reports of the study and listing as the Secretary deems advisable. The Secretary shall prepare and submit a final report containing the listing required by this subsection to the Congress not later than 12 months after the date of the enactment of this Act. The Secretary shall publicize and disseminate nationally the listing required by this section to the education community, parents, and other interested persons.

(—U.S.C.—) Enacted Sept. 30, 1986, P.L. 99-425, sec. 901, 100 Stat. 978.

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PART VII—PUBLIC LIBRARIES AND OTHER PUBLIC PROPERTY

Library Services and Construction Act [1]

(Public Law 597, 84th Congress)

AN ACT To promote the further development of public library services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Library Services and Construction Act".

(20 U.S.C. 351, note) Enacted June 19, 1956, ch. 407, sec. 1, 70 Stat. 293; amended February 11, 1964, P.L. 88-269, sec. 10(a), 78 Stat. 16.

DECLARATION OF POLICY

SEC. 2. (a) It is the purpose of this Act to assist the States in the extension and improvement of public library services to areas and populations of the States which are without such services or to which such services are inadequate and to assist Indian tribes in planning and developing library services to meet their needs. It is the further purpose of this Act to assist with (1) public library construction and renovation; (2) improving State and local public library services for older Americans, and for handicapped, institutionalized, and other disadvantaged individuals; (3) strengthening State library administrative agencies; (4) promoting interlibrary cooperation and resource sharing among all types of libraries; (5) strengthening major urban resource libraries; and (6) increasing the capacity of libraries to keep up with rapidly changing information technology.

(b) Nothing in this Act shall be construed to interfere with State and local initiative and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and, insofar as consistent with the purposes of this Act, the determination of the best uses of the funds provided under this Act shall be reserved to the States and their local subdivisions and Indian tribes.

(20 U.S.C. 351) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1660; amended Oct. 7, 1977, P.L. 95-123, sec. 4(a), 91 Stat. 1095; amended Oct. 17, 1984, P.L. 98-480, secs. 102(a) and (b), 98 Stat. 2236.

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[1] Sec. 519 of P.L. 93-380 provides as follows:

"Sec. 519. (a) There is established, in the Office of Education, an Office of Libraries and Learning Resources (hereafter in this section referred to as the "Office"), through which the Commissioner shall administer all programs in the Office of Education related to assistance for, and encouragement of, libraries and information centers and education technology.

"(b) The Office shall be headed by a Director, to whom the Commissioner shall delegate his delegable functions with respect to the programs administered through the Office."

DEFINITIONS

SEC. 3. The following definitions shall apply to this Act:

(1) "Secretary" means the Secretary of Education.

(2) "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). Such term includes remodeling to meet standards under the Act of August 12, 1968, commonly known as the "Architectural Barriers Act of 1968", remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries. For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

(3) "Library service" means the performance of all activities of a library relating to the collection and organization of library materials and to making the materials and information of a library available to a clientele.

(4) "Library services for the physically handicapped" means the providing of library services, through public or other nonprofit libraries, agencies, or organizations, to physically handicapped persons (including the blind and other visually handicapped) certified by competent authority as unable to read or to use conventional printed materials as a result of physical limitations.

(5) "Public library" means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds. Such term also includes a research library, which, for the purposes of this sentence, means a library, which—

(A) makes its services available to the public free of charge;

(B) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

(C) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(D) is not an integral part of an institution of higher education.

(6) "Public library services" means library services furnished by a public library free of charge.

(7) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(8) "State Advisory Council on Libraries" means an advisory council for the purposes of clause (3) of section 6(a) of this Act which shall—

(A) be broadly representative of the public, school, academic, special, and institutional libraries, and libraries serving the handicapped, in the State and of persons using such libraries, including disadvantaged persons within the State;

(B) advise the State library administrative agency on the development of, and policy matters arising in the administration of, State plan; and

(C) assist the State library administrative agency in the evaluation of activities assisted under this Act;

(9) "State institutional library services" means the providing of books and other library materials, and of library services, to (A) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, or (B) students in residential schools for the physically handicapped (including mentally retarded, hearing impaired, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons who by reason thereof require special education) operated or substantially supported by the State.

(10) "State library administrative agency" means the official agency of a State charged by law of that State with the extension and development of public library services throughout the State, which has adequate authority under law of the State to administer State plans in accordance with the provisions of this Act.

(11) "Basic State plan" means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this Act; provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under provisions of this Act; and submits copies for approval as required by regulations promulgated by the Secretary.

(12) "Long-range program" means the comprehensive program of not less than three nor more than five years which identifies a State's library needs and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this Act. Such long-range programs shall be developed by the State library administrative agency and shall specify the State's policies, criteria, priorities, and procedures consistent with the Act as required by the regulations promulgated by the Secretary and shall be updated as library progress requires.

(13) "Annual program" means the projects which are developed and submitted to describe the specific activities to be carried out annually toward achieving fulfillment of the long-range program. These annual programs shall be submitted in such detail as required by regulations promulgated by the Secretary.

(14) "Major urban resource library" means any public library located in a city having a population of 100,000 or more individuals, as determined by the Secretary.

(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized by the Secretary of the Interior as eligible for the spe-

cial programs and services provided by the United States to Indians because of their status as Indians.

(16) "Hawaiian native" means any individual any of whose ancestors were natives prior to 1778 in the area which now comprises the State of Hawaii.

(20 U.S.C. 351a) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1660; amended October 19, 1973, P.L. 93-133, sec. 4(a), 87 Stat. 466; amended Oct. 7, 1977, P.L. 95-123, sec. 4(b), 91 Stat. 1095; amended Oct. 17, 1984, P.L. 98-480, secs. 103(a) and (b), 98 Stat.; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 902.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 4. (a) There are authorized to be appropriated—

(1) for the purpose of making grants as provided in title I, $75,000,000 for fiscal year 1985, $80,000,000 for fiscal year 1986, $85,000,000 for fiscal year 1987, $90,000,000 for fiscal year 1988, and $95,000,000 for fiscal year 1989;

(2) for the purpose of making grants as provided in title II, $50,000,000 for each of the fiscal years 1985, 1986, 1987, 1988, and 1989;

(3) for the purpose of making grants as provided in title III, $20,000,000 for fiscal year 1985, $25,000,000 for fiscal year 1986, $30,000,000 for fiscal year 1987, $35,000,000 for fiscal year 1988, and $30,000,000 for fiscal year 1989;

(4) for the purpose of making grants as provided in title V, $1,000,000 for each of the fiscal years 1985, 1986, 1987, and 1988; and

(5) for the purpose of making grants as provided in title VI, $5,000,000 for each of the fiscal years 1985, 1986, 1987, and 1988.

There shall be available for the purpose of making grants under title IV for each of the fiscal years 1985, 1986, 1987, 1988, and 1989, 1.5 per centum of the amount appropriated pursuant to each of clauses (1), (2), and (3) for each such fiscal year. There shall be available for the purpose of making grants under section 5(d) for such fiscal years 0.5 per centum of the amount appropriated pursuant to each of such clauses for each such fiscal year.

(b) Notwithstanding any other provision of law, unless enacted in express limitation of the provisions of this subsection, any sums appropriated pursuant to subsection (a) shall (1), in the case of sums appropriated pursuant to paragraphs (1) and (3) thereof, be available for obligation and expenditure for the period of time specified in the Act making such appropriation, and (2), in the case of sums appropriated pursuant to paragraph (2) thereof, subject to regulations of the Secretary promulgated in carrying out the provisions of section 5(b), be available for obligation and expenditure for the year specified in the Appropriation Act and for the next succeeding year.

(c)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection

shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(20 U.S.C. 351b) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1662; amended May 3, 1973, P.L. 93-29, sec. 801, 87 Stat. 59; amended Oct. 7, 1977, P.L. 95-123, sec. 2, 91 Stat. 1095; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b), 4(a) and (b), 98 Stat. 2237.

ALLOTMENTS TO STATES AND INDIAN TRIBES

SEC. 5. (a)(1) From the sums appropriated pursuant to clause (1), (2), or (3) of section 4(a) for any fiscal year, the Secretary shall allot the minimum allotment, as determined under paragraph (3) of this subsection, to each State. Any sums remaining after minimum allotments have been made shall be allotted in the manner set forth in paragraph (2) of this subsection.

(2) From the remainder of any sums appropriated pursuant to clause (1), (2), or (3) of section 4(a) for any fiscal year, the Secretary shall allot to each State such part of such remainder as the population of the State bears to the population of all the States.

(3) For the purposes of this subsection, the "minimum allotment" shall be—

(A) with respect to appropriations for the purposes of title I, $200,000 for each State, except that it shall be $40,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(B) with respect to appropriations for the purposes of title II, $100,000 for each State, except that it shall be $20,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(C) with respect to appropriations for the purposes of title III, $40,000 for each State, except that it shall be $10,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

If the sums appropriated pursuant to clause (1), (2), or (3) of section 4(a) for any fiscal year are insufficient to fully satisfy the aggregate of the minimum allotments for that purpose, each of such minimum allotments shall be reduced ratably.

(4) The population of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(5) There is hereby authorized for the purpose of evaluation (directly or by grants or contracts) of programs authorized by this Act, such sums as Congress may deem necessary for any fiscal year.

(b) The amount of any State's allotment under subsection (a) for any fiscal year from any appropriation made pursuant to clause (1), (2), or (3) of section 4(a) which the Secretary deems will not be required for the period and the purpose for which such allotment is available for carrying out the State's annual program shall be available for reallotment from time to time on such dates during such year as the Secretary shall fix. Such amount shall be available for reallotment to other States in proportion to the original allotments for such year to such States under subsection (a) but with such proportionate amount for any of such other State being reduced to the extent that if it exceeds the amount which the Secretary estimates the State needs and will be able to use for such period of time for which the original allotments were made and the total of such reductions shall be similarly reallotted among the States not suffering such a reduction. Any amount reallotted to a State under this subsection for any fiscal year shall be deemed to be a part of its allotment for such year pursuant to subsection (a).

(c)(1) From the sums available pursuant to the second sentence of section 4(a) for any fiscal year, the Secretary shall allot an equal amount to each Indian tribe. Grants from such allotted amounts shall be made to Indian tribes which have submitted approved applications under section 403.

(2) Any allotted funds for which an Indian tribe does not apply, or applies but does not qualify, shall be reallocated by the Secretary among Indian tribes which have submitted approved plans under section 404. In making such allocations (A) no funds shall be allocated to an Indian tribe unless such funds will be administered by a librarian, and (B) the Secretary shall take into account the needs of Indian tribes for such allocations to carry out the activities described in section 402(b).

(d)(1) From the sums available pursuant to the last sentence of section 4(a) for any fiscal year, the Secretary shall make grants to organizations primarily serving and representing Hawaiian natives that are recognized by the Governor of the State of Hawaii.

(2) Grants under this subsection shall be made on the basis of applications and plans submitted by such organizations that are consistent with the requirements imposed pursuant to sections 402(b), 403 and 404. Funds made available by grants under this subsection may be used for the purposes specified in clauses (1) through (8) of section 402(a), to contract to provide public library services to Native Hawaiians, and to carry out any other activities authorized under this sentence by contract. Section 402(c) shall apply with respect to the cultural materials of Hawaiian natives. The Secretary shall issue criteria for the approval of applications and plans but the criteria may not include an allotment formula and may not contain a matching of funds requirement.

(20 U.S.C. 351c) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1662; amended May 3, 1973, P.L. 93-29, sec. 801, 87 Stat. 59; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 105 98 Stat. 2237, 2238; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 902.

PLANS AND PROGRAMS

Sec. 6. (a) Any State desiring to receive its allotment for any purpose under this Act for any fiscal year shall (1) have in effect for such fiscal year a basic State plan as defined in section 3(11) and meeting the requirements set forth in subsection (b), (2) submit an annual program as defined in section 3(13) for the purposes for which allotments are desired, meeting the appropriate requirements set forth in titles I, II, and III and shall submit (no later than July 1, 1972) a long-range program as defined in section 3(12) for carrying out the purposes of this Act as specified in subsection (d), and (3) establish a State Advisory Council on Libraries which meets the requirements of section 3(8).

(b) A basic State plan under this Act shall—

(1) provide for the administration, or supervision of the administration, of the programs authorized by this Act by the State library administrative agency;

(2) provide that any funds paid to the State in accordance with a long-range program and an annual program shall be expended solely for the purposes for which funds have been authorized and appropriated and that such fiscal control and fund accounting procedures have been adopted as may be necessary to assure proper disbursement of, and account for, Federal funds paid to the State (including any such funds paid by the State to any other agency) under this Act;

(3) provide satisfactory assurance that the State agency administering the plan (A) will make such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this Act and to determine the extent to which funds provided under this Act have been effective in carrying out its purposes, including reports of evaluations made under the State plans, and (B) will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) provide that priority will be given to programs and projects—

(A) that improve access to public library resources and services for the least served populations in the State, including programs for individuals with limited English-speaking proficiency (as defined in section 703(a) of the Bilingual Education Act) or handicapping conditions, and programs and projects in urban and rural areas;

(B) that serve the elderly;

(C) that are designed to combat illiteracy; and

(D) that increase services and access to services through effective use of technology.

(c)(1) The Secretary shall not approve any basic State plan pursuant to this Act for any fiscal year unless—

(A) the plan fulfills the conditions specified in section 3(11) and subsection (b) of this section and the appropriate titles of this Act;

(B) he has made specific findings as to the compliance of such plan with requirements of this Act and he is satisfied that adequate procedures are subscribed to therein insure that any assurances and provisions of such plan will be carried out.

(2) The State plan shall be made public as finally approved.

(3) The Secretary shall not finally disapprove any basic State plan submitted pursuant to subsection (a)(1), or any modification thereof, without first affording the State reasonable notice and opportunity for hearing.

(d) The long-range program of any State for carrying out the purposes of this Act shall be developed in consultation with the Secretary and shall—

(1) set forth a program under which the funds received by the State under the programs authorized by this Act will be used to carry out a long-range program of library services and construction covering a period of not less than three nor more than five years;

(2) be annually reviewed and revised in accordance with changing needs for assistance under this Act and the results of the evaluation and surveys of the State library administrative agency;

(3) set forth policies and procedures (A) for the periodic evaluation of the effectiveness of programs and projects supported under this Act, and (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects; and

(4) set forth effective policies and procedures for the coordination of programs and projects supported under this Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools and with other public or private library services programs.

Such program shall be developed with advice of the State Advisory council and in consultation with the Secretary and shall be made public as it is finally adopted.

(e) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a program submitted under this Act, finds—

(1) that the program has been so changed that it no longer complies with the provisions of this Act, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions or with any assurance or other provision contained in the basic State plan,

then, until he is satisfied that there is no longer any such failure to comply, after appropriate notice to such State agency, he shall make no further payments to the State under this Act or shall limit payments to programs or projects under, or parts of, the programs not affected by the failure, or shall require that payments by such State agency under this Act shall be limited to local or other public library agencies not affected by the failure.

(f)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of a plan submitted under this Act or with his final action under subsection (e) such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon take new or modified findings of fact and may modify his previous action, and shall certify to the court the record of further proceedings.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(g)(1) Any Indian tribe desiring to receive its allotment under section 5(c)(1) shall submit an application to the Secretary in accordance with section 403.

(2) Any Indian tribe desiring to receive an additional allocation under section 5(c)(2) shall submit a plan in accordance with section 404.

(20 U.S.C. 351d) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1663; amended Aug. 21, 1974, P.L. 93-380, sec. 841(b), 88 Stat. 609, 610; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 106, 98 Stat. 2237, 2239; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 903.

PAYMENTS

SEC. 7. (a) From the allotments available therefor under section 5 from appropriations pursuant to clause (1), (2), or (3) of section 4(a), the Secretary shall pay to each State which has a basic State plan approved under section 6(a)(1), an annual program and a long-range program as defined in sections 3 (12) and (13) an amount equal to the Federal share of the total sums expended by the State and its political subdivisions in carrying out such plan, except that no payments shall be made from appropriations pursuant to such paragraph (1) for the purposes of title I to any State (other than the Trust Territory of the Pacific Islands) for any fiscal year unless the Secretary determines that—

(1) there will be available for expenditure under the programs from State and local sources during the fiscal year for which the allotment is made—

(A) sums sufficient to enable the State to receive for the purpose of carrying out the programs payments in an amount not less than the minimum allotment for that State for the purpose, and

(B) not less than the total amount actually expended, in the areas covered by the programs for such year, for the purposes of such programs from such sources in the second preceding fiscal year; and

(2) there will be available for expenditure for the purposes of the programs from State sources during the fiscal year for which the allotment is made not less than the total amount actually expended for such purposes from such sources in the second preceding fiscal year.

(b)(1) For the purpose of this section, the "Federal share" for any State shall be, except as is provided otherwise in title III, 100 per centum less the State percentage, and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of all the States (excluding Puerto Rico, Guam, American Samoa, and the Northern Mariana Islands[1] the Virgin Islands, and the

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[1] So in law. Apparent intention of section 107(4) of the Library Services and Construction Act was to insert reference to Northern Mariana Islands after both references to American Samoa.

Trust Territory of the Pacific Islands), except that (A) the Federal share shall in no case be more than 66 per centum, or less than 33 per centum, and (B) the Federal share for Puerto Rico, Guam, American Samoa, and the Northern Mariana Islands and the Virgin Islands shall be 66 per centum, and (C) the Federal share for the Trust Territory of the Pacific Islands shall be 100 per centum.

(2) The "Federal share" for each State shall be promulgated by the Secretary within sixty days after the beginning of the fiscal year ending June 30, 1971, and of every second fiscal year thereafter, on the basis of the average per capita incomes of each of the States and of all the States (excluding Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), for the three most recent consecutive years for which satisfactory data are available to him from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years beginning after the promulgation.

(c) From the sums available pursuant to the second sentence of section 4(a), the Secretary shall pay to each Indian tribe which has an approved application under section 403 an amount equal to such tribe's allotment under section 5(c)(1) and shall pay to each Indian tribe which has an approved plan under section 404 an amount equal to such tribe's additional allocation under section 6(g)(2), except that such additional allocation shall not exceed 80 percent of the cost of carrying out such plan.

(20 U.S.C. 351e) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1665; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 107, 98 Stat. 2237, 2289.

ADMINISTRATIVE COSTS

SEC. 8. A State may expend funds received under titles I and II for administrative costs in connection with programs and activities carried out under titles I, II, and III, but such administrative expenditures under such titles[1] for any fiscal year may not exceed the greater of (1) 6 per centum of the sum of the amounts allotted to such State under such titles for such fiscal year, or (2) $60,000.

(20 U.S.C. 351f) Enacted Oct. 7, 1977, P.L. 95-123, sec. 3(a), 91 Stat. 1095; amended Oct. 17, 1984, P.L. 98-480, sec. 108, 98 Stat. 2240.

TITLE I—LIBRARY SERVICES

GRANTS TO STATES FOR LIBRARY SERVICES

SEC. 101. The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(1) to States which have approved basic State plans under section 6 and have submitted annual programs under section 103—

(1) for the extension of public library services to areas and populations without such services and the improvement of such services to areas and populations to ensure that such

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[1] P.L. 99-159, sec. 303(a) enacted the following correction of administrative cost misinterpretation: "[1] The references in section 8 of the Act (20 U.S.C. 351f) to 'such titles' mean, and shall be construed as meaning, the immediately preceding reference to 'titles I, II, and III'."

services are adequate to meet user needs and to make library services accessible to individuals who, by reason of distance, residence, handicap, age, literacy level, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the public;

(2) for adapting public library services to meet particular needs of individuals within the States;

(3) for assisting libraries to serve as community information referral centers;

(4) for assisting libraries in providing literacy programs for adults and school dropouts in cooperation with other agencies and organizations, if appropriate;

(5) for strengthening State library administrative agencies; and

(6) for strengthening major urban resource libraries.

(20 U.S.C. 352) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1666; amended Oct. 7, 1977, P.L. 95-123, sec. 4(c), 91 Stat. 1096; amended Oct. 17, 1984, P.L. 98-480, sec. 109, 98 Stat. 2240.

USES OF FEDERAL FUNDS

SEC. 102. (a) Funds appropriated pursuant to paragraph (1) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of carrying out State plans submitted and approved under section 6 and section 103. Except as is provided in subsection (b), grants to States under this title may be used solely—

(1) for planning for, and taking other steps leading to the development of, programs and projects designed to assist libraries to serve as community centers for information and referral and to extend and improve library services, as provided in clause (2);

(2) for (A) extending public library services to geographical areas and groups of persons without such services and improving such services in such areas and for such groups as may have inadequate public library services; and (B) establishing, expanding, and operating programs and projects to provide (i) State institutional library services, (ii) library services to the physically handicapped, and (iii) library services for the disadvantaged in urban and rural areas; and (C) strengthening metropolitan public libraries which serve as national or regional resource centers; and

(3) for supporting and expanding library services of major urban resource libraries which, because of the value of the collections of such libraries to individual users and to other libraries, need special assistance to furnish services at a level required to meet the demands made for such services.

No grant may be made under clause (3) of this subsection unless the major urban resource library provides services to users throughout the regional area in which such library is located.

(b) Subject to the provisions of section 8 and such limitations and criteria as the Secretary shall establish by regulation, grants to States under this Act may be used (1) to pay the cost of administering the State plans submitted and approved under this Act (including obtaining the services of consultants), statewide planning for and evaluation of library services, dissemination of information concerning library services, and the activities of such advisory groups and panels as may be necessary to assist the State library administrative agency in carrying out its functions under this title, and (2) for strengthening the capacity of State library administrative agencies for meeting the needs of the people of the States.

(c)(1) Subject to such criteria as the Secretary shall establish by regulation, in any fiscal year in which sums appropriated pursuant to paragraph (1) of section 4(a) (excluding the amount made available for Indian tribes and Hawaiian natives) exceed $60,000,000, each State which is subject to the provisions of this subsection shall reserve that portion of the allotment of each State attributable to the amount in excess of $60,000,000 in that fiscal year in the manner required in paragraph (2).

(2)(A) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Secretary, and in which the aggregate population of such cities does not exceed 50 percent of the total population of the State, the portion of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) of this section in accordance with clause (2) of section 103 in an amount which bears the same ratio to the total of such excess amount as the aggregate population of such cities bears to the total population of such State.

(B) In each State having one or more cities with a population of 100,000 or more individuals, as determined by the Secretary, and in which the aggregate population of such cities exceeds 50 percent of the total population of the State, 50 percent of the excess amount specified in paragraph (1) shall be reserved for the purposes described in subsection (a)(3) in accordance with clause (2) of section 103.

(C) Any State which does not include any city with a population of 100,000 or more individuals, as determined by the Secretary, shall not be subject to the provisions of this subsection.

(20 U.S.C. 353) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1667; amended Oct. 7, 1977, P.L. 95-123, sec. 3 and 4, 91 Stat. 1095, 1096; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 110, 98 Stat. 2237, 2240; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 903.

STATE ANNUAL PROGRAM FOR LIBRARY SERVICES

Sec. 103. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for that fiscal year an annual program for library services. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation, and shall—

(1) set forth a program, subject to clause (2) of this section, for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (1) of section 4(a) for that year will be used, consistent with its long-range program, solely for the purposes set forth in section 102;

(2) set forth a program for the year submitted under which the amount reserved by the State under section 102(c), if appli-

cable, will be used for the purposes set forth in clause (3) of section 102(a);

(3) set forth the criteria used in allocating such funds among such purposes, which criteria shall insure that the State will expend from Federal, State, and local sources an amount not less than the amount expended by the State from such sources for State institutional library services, and library services to the physically handicapped and institutionalized individuals during the second fiscal year preceding the fiscal year for which the determination is made;

(4) describe the uses of funds for programs for the elderly, which may include (A) the training of librarians to work with the elderly; (B) the conduct of special library programs for the elderly particularly for the elderly who are handicapped; (C) the purchase of special library materials for use by the elderly; (D) the payment of salaries for elderly persons who wish to work in libraries as assistants on programs for the elderly; (E) the provision of in-home visits by librarians and other library personnel to the elderly; (F) the establishment of outreach programs to notify the elderly of library services available to them; and (G) the furnishing of transportation to enable the elderly to have access to library services;

(5) describe the manner in which funds for programs for handicapped individuals will be used to make library services more accessible to such individuals;

(6) include such information, policies, and procedures as will assure that the activities to be carried out during that year are consistent with the long-range program; and

(7) include an extension of the long-range program, taking into consideration the results of evaluations.

No State shall, in carrying out the provisions of clause (2) of this section, reduce the amount paid to an urban resource library below the amount that such library received in the year preceding the year for which the determination is made under such clause (2). The amount which a State is required to expend pursuant to clause (3) of this section shall be ratably reduced to the extent that Federal allocations to the State are reduced.

(20 U.S.C. 354) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1667; amended Oct. 7, 1977, P.L. 95-123, sec. 4(f) and (5), 91 Stat. 1096, 1097; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 111, 98 Stat. 2237, 2241.

TITLE II—PUBLIC LIBRARY CONSTRUCTION

GRANTS TO STATES FOR PUBLIC LIBRARY CONSTRUCTION

SEC. 201. The Secretary shall carry out a program of making grants to States which have had approved a basic State plan under section 6 and have submitted a long-range program and submit annually appropriately updated programs under section 203 for the construction of public libraries.

(20 U.S.C. 355a) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1668; amended Oct. 17, 1984, P.L. 98-480, sec. 103(b), 98 Stat. 2237.

USES OF FEDERAL FUNDS

Sec. 202. (a) Funds appropriated pursuant to paragraph (2) of section 4(a) shall be available for grants to States from allotments under section 5(a) for the purpose of paying the Federal share of the cost of construction projects carried under State plans. Such grants shall be used for the construction (as defined in section 3(2)) of public libraries.

(b) For the purposes of subsection (a), the Federal share of the cost of construction of any project assisted under this title shall not exceed one-half of the total cost of such project.

(c)[1] If, within 20 years after completion of construction of any library facility which has been constructed in part with funds made available under this title—

(1) the recipient (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as a library facility, unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such recipient (or successor) an amount which bears the same ratio to the value of the facility at that time (or part thereof constituting an approved project or projects) as the amount of the Federal grant bore to the cost of such facility (or part thereof). The value shall be determined by the parties or by action brought in the United States district court for the district in which the facility is located.

(20 U.S.C. 355b) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1668; amended Oct. 7, 1977, P.L. 95-123, sec. 6, 91 Stat. 1097; amended Oct. 17, 1984, P.L. 98-480, secs. 112(a) and (b), 98 Stat. 2241.

STATE ANNUAL PROGRAM FOR THE CONSTRUCTION OF PUBLIC LIBRARIES

Sec. 203. Any State desiring to receive a grant from its allotment for the purpose of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit such projects as the State may approve and are consistent with its long-range program.

Such projects shall be submitted at such time and contain such information as the Secretary may require by regulation and shall—

(1) for the year submitted under which funds are paid to the State from appropriations pursuant to paragraph (2) of section 4(a) for that year, be used, consistent with the State's long-range program, for the construction of public libraries in areas of the State which are without the library facilities necessary to provide adequate library services;

(2) follow the criteria, policies, and procedures for the approval of applications for the construction of public library facilities under the long-range program;

(3) follow policies and procedures which will insure that every local or other public agency whose application for funds under the plan with respect to a project for construction of

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[1] Section 112(b)(2) of P.L. 98-480 provided that subsection (c) of section 202 of the Library Services and Construction Act applies to facilities constructed prior to and after the date of enactment of P.L. 98-480 with funds provided under title II of such Act.

public library facilities is denied will be given an opportunity for a hearing before the State library administrative agency;

(4) include an extension of the long-range program taking into consideration the results of evaluations.

(20 U.S.C. 355c) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1668; amended Oct. 17, 1984, P.L. 98-480, sec. 103(b), 98 Stat. 2237.

TITLE III—INTERLIBRARY COOPERATION AND RESOURCE SHARING

GRANTS TO STATES FOR INTERLIBRARY COOPERATION PROGRAMS

SEC. 301. The Secretary shall carry out a program of making grants to States which have an approved basic State plan under section 6, have submitted a long-range program and an annual program under section 303 for interlibrary cooperation programs, and have submitted long-range and annual programs which are directed toward eventual compliance with the requirements of section 304.

(20 U.S.C. 355e) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1668; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 113(a) and (b), 98 Stat. 2237, 2242.

USES OF FEDERAL FUNDS

SEC. 302. (a) Funds appropriated pursuant to paragraph (3) of section 4(a) shall be available for grants to States from allotments under paragraphs (1) and (3) of section 5(a) for the purpose of carrying out the Federal share of the cost of carrying out State plans submitted and approved under section 303. Such grants shall be used (1) for planning for, and taking other steps leading to the development of, cooperative library networks; and (2) establishing, expanding, and operating local, regional, and interstate cooperative networks of libraries, which provide for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers for improved supplementary services for the special clientele served by each type of library or center.

(b) For the purposes of this title, the Federal share shall be 100 per centum of the cost of carrying out the State plan.

(20 U.S.C. 355e-1) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1669.

STATE ANNUAL PROGRAM FOR INTERLIBRARY COOPERATION

SEC. 303. Any State desiring to receive a grant from its allotment for the purposes of this title for any fiscal year shall, in addition to having submitted, and having had approved, a basic State plan under section 6, submit for that fiscal year an annual program for interlibrary cooperation. Such program shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall comply with the requirements of section 304, shall—

(1) set forth a program for the year submitted under which funds paid to the State from appropriations pursuant to paragraph (3) of section 4(a) will be used, consistent with its long-range program for the purposes set forth in section 302,

(2) include an extension of the long-range program taking into consideration the results of evaluations.

(20 U.S.C. 355e-2) Enacted Dec. 30, 1970, P.L. 91-600, sec. 2(b), 84 Stat. 1669; amended Oct. 17, 1984, P.L. 98-480, secs. 103(b) and 113(c), 98 Stat. 2237, 2242.

RESOURCE SHARING

SEC. 304. (a) The long-range program and annual program of each State shall include a statewide resource sharing plan which is directed toward eventual compliance with the provisions of this section.

(b) In developing the State basic and long-range programs, the State library agency with the assistance of the State advisory council on libraries shall consider recommendations from current and potential participating institutions in the interlibrary and resource sharing programs authorized by this title.

(c) The State's long-range program shall identify interlibrary and resource sharing objectives to be achieved during the period covered by the basic and long-range plans required by section 6. The long-range program may include—

(1) criteria for participation in statewide resource sharing to ensure equitable participation by libraries of all types that agree to meet requirements for resource sharing;

(2) an analysis of the needs for development and maintenance of bibliographic access, including data bases for monographs, serials, and audiovisual materials;

(3) an analysis of the needs for development and maintenance of communications systems for information exchange among participating libraries;

(4) an analysis of the needs for development and maintenance of delivery systems for exchanging library materials among participating libraries;

(5) a projection of the computer and other technological needs for resource sharing;

(6) an identification of means which will be required to provide users access to library resources, including collection development and maintenance in major public, academic, school, and private libraries serving as resource centers;

(7) a proposal, where appropriate, for the development, establishment, demonstration, and maintenance of intrastate multitype library systems;

(8) an analysis of the State's needs for development and maintenance of links with State and national resource sharing systems; and

(9) a description of how the evaluations required by section 6(d) will be conducted.

(d) Libraries participating in resource sharing activities under this section may be reimbursed for their expenses in loaning materials to public libraries.

(20 U.S.C. 355e-3) Enacted Oct. 17, 1984, P.L. 98-480, sec. 113(d), 98 Stat. 2242.

TITLE IV—LIBRARY SERVICES FOR INDIAN TRIBES

FINDINGS AND PURPOSE; AUTHORIZATION OF GRANTS

SEC. 401. (a) The Congress finds that—

(1) most Indian tribes receive little or no funds under titles I, II, and III of this Act;

(2) Indian tribes and reservations are generally considered to be separate nations and seldom are eligible for direct library allocations from States;

(3) the vast majority of Indians living on or near reservations do not have access to adequate libraries or have access to no libraries at all; and

(4) this title is therefor required specifically to promote special efforts to provide Indian tribes with library services.

(b) It is therefor the purpose of this title (1) to promote the extension of public library services to Indian people living on or near reservations; (2) to provide incentives for the establishment and expansion of tribal library programs; and (3) to improve the administration and implementation of library services for Indians by providing funds to establish and support ongoing library programs.

(c) The Secretary shall carry out a program of making grants from allotments under section 5(c)(1) to Indian tribes that have submitted an approved application under section 403 for library services to Indians living on or near reservations.

(d) The Secretary shall carry out a program of making special project grants from funds available under section 5(c)(2) to Indian tribes that have submitted approved plans for the provision of library services as described in section 404.

(20 U.S.C. 361) Enacted May 3, 1973, P.L. 93-29, sec. 801(a), 87 Stat; amended Oct. 17, 1984, P.L. 98-480, sec. 114, 98 Stat. 2243.

USE OF FUNDS

SEC. 402. (a) Funds made available by grant under subsection (c) or (d) of section 401 may be used for—

(1) inservice or preservice training of Indians as library personnel;

(2) purchase of library materials;

(3) conduct of special library programs for Indians;

(4) salaries of library personnel;

(5) construction, purchase, renovation, or remodeling of library buildings and facilities;

(6) transportation to enable Indians to have access to library services;

(7) dissemination of information about library services;

(8) assessment of tribal library needs; and

(9) contracts to provide public library services to Indians living on or near reservations or to accomplish any of the activities described in clauses (1) through (8).

(b) Any tribe that supports a public library system shall continue to expend from Federal, State, and local sources an amount not less than the amount expended by the tribe from such sources for public library services during the second fiscal year preceding the fiscal year for which the determination is made.

(c) Nothing in this Act shall be construed to prohibit restricted collections of tribal cultural materials with funds made available under this Act.

(20 U.S.C. 362) Enacted May 3, 1973, P.L. 93-29, sec. 801(a), 87 Stat. 57; amended Oct. 17, 1984, P.L. 98-480, sec. 114, 98 Stat. 2243.

APPLICATIONS FOR LIBRARY SERVICES TO INDIANS

Sec. 403. Any Indian tribe which desires to receive its allotment under section 5(c)(1) shall submit an application which contains such information as the Secretary may require by regulation.

(20 U.S.C. 363) Enacted May 3, 1973, P.L. 93-29, sec. 801(a), 87 Stat. 58; amended Oct. 17, 1984, P.L. 98-480, sec. 114, 98 Stat. 2244.

PLANS FOR LIBRARY SERVICES TO INDIANS

Sec. 404. Any Indian tribe which desires to receive a special project grant from funds available under section 5(c)(2) shall submit a plan for library services on or near an Indian reservation. Such plans shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall set forth a program for the year under which funds paid to the Indian tribe will be used, consistent with—

(1) a long-range program, and

(2) the purposes set forth in section 402(a).

(20 U.S.C. 364) Enacted May 3, 1973, P.L. 93-29, sec. 801(a), 87 Stat. 58; amended Oct. 17, 1984, P.L. 98-480, sec. 114, 98 Stat. 2244.

COORDINATION WITH PROGRAMS FOR INDIANS

Sec. 405. The Secretary, with the Secretary of the Interior, shall coordinate programs under this title with the programs assisted under the various Acts and programs administered by the Department of the Interior that pertain to Indians.

(20 U.S.C. 365) Enacted Oct. 17, 1984, P.L. 98-480, sec. 114, 98 Stat. 2244.

SERVICES IN STATES WITH INDIAN TRIBES NOT RESIDING ON OR NEAR RESERVATIONS

Sec. 406. The provisions of this title requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations, shall not apply in the case of Indian tribes and Indians in California, Oklahoma, and Alaska.

(20 U.S.C. 366) Enacted Nov. 22, 1985, P.L. 99-159, 99 Stat. 903.

TITLE V—FOREIGN LANGUAGE MATERIALS ACQUISITION

GRANTS FOR FOREIGN LANGUAGE MATERIAL ACQUISITION

Sec. 501. (a) The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(4) to State and local public libraries for the acquisition of foreign language materials.

(b) Recipients of grants under this title shall be selected on a competitive basis.

(c) No grant under this title for any fiscal year shall exceed $15,000.

(20 U.S.C. 371) Enacted Oct. 17, 1984, P.L. 98-480, sec. 115, 98 Stat. 2244.

TITLE VI—LIBRARY LITERACY PROGRAMS

STATE AND LOCAL LIBRARY GRANTS

SEC. 601. (a) The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(5) to State and local public libraries for the purposes of supporting literacy programs.

(b) Grants to State public libraries under this title shall be for the purposes of—

(1) coordinating and planning library literacy programs; and

(2) making arrangements for training librarians and volunteers to carry out such programs.

(c) Grants to local public libraries shall be for the purposes of—

(1) promoting the use of the voluntary services of individuals, agencies, and organizations in providing literacy programs;

(2) acquisition of materials for literacy programs; and

(3) using library facilities for such programs.

(d) Recipients of grants under this title shall be selected on a competitive basis.

(e) No grant under this title for any fiscal year shall exceed $25,000.

(20 U.S.C. 375) Enacted Oct. 17, 1984, P.L. 98-480, sec. 115, 98 Stat. 2245.

National Commission on Libraries and Information Science Act

(Public Law 91-345)

AN ACT To establish a National Commission on Libraries and Information Science, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission on Libraries and Information Science Act".

(20 U.S.C. 1501, note) Enacted July 20, 1970, P.L. 91-345, sec. 1, 84 Stat. 440.

STATEMENT OF POLICY

Sec. 2. The Congress hereby affirms that library and information services adequate to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

(20 U.S.C. 1501) Enacted July 20, 1970, P.L. 91-345, sec. 2, 84 Stat. 440.

COMMISSION ESTABLISHED

Sec. 3. (a) There is hereby established as an independent agency within the executive branch, a National Commission on Libraries and Information Science (hereinafter referred to as the "Commission").

(b) The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission and such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

(20 U.S.C. 1502) Enacted July 20, 1970, P.L. 91-345, sec. 3, 84 Stat. 440.

CONTRIBUTIONS

Sec. 4. The Commission shall have authority to accept in the name of the United States grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

(20 U.S.C. 1503) Enacted July 20, 1970, P.L. 91-345, sec. 4, 84 Stat. 441.

FUNCTIONS

SEC. 5. (a) The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 2. In carrying out that responsibility, the Commission shall—

(1) advise the President and the Congress on the implementation of national policy by such statements, presentations, and reports as it deems appropriate;

(2) conduct studies, surveys, and analyses of the library and informational needs of the Nation, including the special library and informational needs of rural areas, of economically, socially, or culturally deprived persons and of elderly persons, and the means by which these needs may be met through information centers, through the libraries of elementary and secondary schools and institutions of higher education, and through public, research, special, and other types of libraries;

(3) appraise the adequacies and deficiencies of current library and information resources and services and evaluate the effectiveness of current library and information science programs;

(4) develop overall plans for meeting national library and informational needs and for the coordination of activities at the Federal, State, and local levels, taking into consideration all of the library and informational resources of the Nation to meet those needs;

(5) be authorized to advise Federal, State, local, and private agencies regarding library and information sciences;

(6) promote research and development activities which will extend and improve the Nation's library and information handling capability as essential links in the national communications networks;

(7) submit to the President and the Congress (not later than January 31 of each year) a report on its activities during the preceding fiscal year; and

(8) make and publish such additional reports as it deems to be necessary, including, but not limited to, reports of consultants, transcripts of testimony, summary reports, and reports of other Commission findings, studies, and recommendations.

(b) The Commission is authorized to contract with Federal agencies and other public and private agencies to carry out any of its functions under subsection (a) and to publish and disseminate such reports, findings, studies, and records as it deems appropriate.

(c) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this Act.

(d) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out the purposes of this Act.

(20 U.S.C. 1504) Enacted July 20, 1970, P.L. 91-345, sec. 5, 84 Stat. 441; amended May 3, 1973, sec. 802(a), P.L. 93-29, 87 Stat. 59.

MEMBERSHIP

SEC. 6. (a) The Commission shall be composed of the Librarian of Congress and fourteen members appointed by the President, by and with the advice and consent of the Senate. Five members of the Commission shall be professional librarians or information specialists, and the remainder shall be persons having special competence or interest in the needs of our society for library and information services, at least one of whom shall be knowledgeable with respect to the technological aspects of library and information services and sciences. One of the members of the Commission shall be designated by the President as Chairman of the Commission. The terms of office of the appointive members of the Commission shall be five years, except that (1) the terms of office of the members first appointed shall commence on the date of enactment of this Act and shall expire two at the end of one year, three at the end of two years, three at the end of three years, three at the end of four years, three at the end of five years, as designated by the President at the time of appointment, and (2) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly.

(b) Members of the Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Commission or otherwise engaged in the business of the Commission, be entitled to receive compensation at a rate fixed by the Chairman, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c)(1) The Commission is authorized to appoint, without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, such professional and technical personnel as may be necessary to enable it to carry out its function under this Act.

(2) The Commission may procure, without regard to the civil service or classification laws, temporary and intermittent services of such personnel as is necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(20 U.S.C. 1505) Enacted July 20, 1970, P.L. 91-345, sec. 6, 84 Stat. 442; amended May 3, 1973, P.L. 93-29, sec. 802(b), 87 Stat. 59.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated $500,000 for the fiscal year ending June 30, 1970, and $750,000 for the fiscal year ending June 30, 1971, and for each succeeding year, for the purpose of carrying out the provisions of this Act.

(20 U.S.C. 1506) Enacted July 20, 1970, sec. 7, 84 Stat. 442.

Federal Property and Administrative Services Act of 1949[1]

(Ch. 288, Title II)

* * * * * *

PROPERTY UTILIZATION

Sec. 202. * * *

* * * * * *

(d)[2] Notwithstanding any other provisions of law, Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing such property to grantees of such agencies, except as follows:

(1) Under such regulations as the Administrator may prescribe, any Federal agency may obtain excess personal property for purposes of furnishing it to any institution or organization which is a public agency or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and which is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination made:

Provided, That—

(A) such property is to be furnished for use in connection with the grant; and

(B) the sponsoring Federal agency pays an amount equal to 25 per centum of the original acquisition cost (except for costs of care and handling) of the excess property furnished, such funds to be covered into the Treasury as miscellaneous receipts.

Title to excess property obtained under this paragraph shall vest in the grantees and shall be accounted for and disposed of in accordance with procedures governing the accountability of personal property acquired under grant agreements.

(2) Under such regulations and restrictions as the Administrator may prescribe, the provisions of this subsection shall not apply to the following:

(A) property furnished under section 608 of the Foreign Assistance Act of 1961, as amended, where and to the extent that the Administrator of General Services determines that the property to be furnished under such Act is not needed for donation pursuant to section 203(j) of this Act;

(B) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e));

(C) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, where title is retained in the United States; or

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[1] Enacted June 30, 1949, 63 Stat. 385.

[2] Amendment made by P.L. 94-519, sec. 3, 90 Stat. 2454, 2455 (Enacted October 17, 1976).

(D) property furnished in connection with grants to Indian tribes as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)); or

(E)[1] property furnished by the Secretary of Agriculture to any State or county extension service engaged in cooperative agricultural extension work pursuant to the Act of May 8, 1914 (7 U.S.C. 341 et seq.); any State experiment station engaged in cooperative agricultural research work pursuant to the Act of March 2, 1887 (7 U.S.C. 361a et seq.); and any institution engaged in cooperative agricultural research or extension work pursuant to sections 1433, 1434, 1444, or 1445 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3195, 3196, 3221, and 3222) or the Act of October 10, 1962 (16 U.S.C. 582a et seq.), where title is retained in the United States. For the purpose of this provision, the term "State" means any one of the fifty States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, the Virgin Islands of the United States, and the District of Columbia.

This paragraph shall not preclude any Federal agency obtaining property and furnishing it to a grantee of that agency under paragraph (1) of this subsection.

(e)[2] Each executive agency shall submit during the calendar quarter following the close of each fiscal year a report to the Administrator showing, with respect to personal property—

(1) obtained as excess property or as personal property determined to be no longer required for the purposes of the appropriation from which it was purchased, and

(2) furnished in any manner whatsoever within the United States to any recipient other than a Federal agency,

the acquisition cost, categories of equipment, recipient of all such property, and such other information as the Administrator may require. The Administrator shall submit a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) summarizing and analyzing the reports of the executive agencies.

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DISPOSAL OF SURPLUS PROPERTY

SEC. 203. * * *

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(j)[3] Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer, without cost (except for costs of care and handling), any personal property under the control of any executive agency which has been determined to be surplus property to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all property transferred in accordance with the provisions of paragraphs (2) and (3) of this subsection. In determining whether the property is to be transferred for donation under this subsection, no distinction shall be made between property capitalized in a working-capital fund established under section 2208 of title 10, United States Code, or any similar fund and any other property.

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[1] Amendment made by P.L. 97-98, sec. 1443, 95 Stat. 1321 (Enacted Dec. 22, 1981.)
[2] Amendment made by P.L. 94-519, sec. 3, 90 Stat. 2455 (Enacted October 17, 1976)
[3] Amendment made by P.L. 94-519, sec. 1, 90 Stat. 2451 (Enacted October 17, 1976)

(2) In the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If the Secretary determines that such property is usable and necessary for said purposes, the Secretary shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, through donation, to such educational activities. If the Secretary determines that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) of this subsection.

(3) Except for surplus personal property transferred pursuant to paragraph (2) of this subsection, the Administrator shall, pursuant to criteria which are based on need and utilization and established after such consultation with State agencies as is feasible, allocate such property among the States in a fair and equitable basis (taking into account the condition of the property as well as the original acquisition cost thereof), and transfer to the State agency property selected by it for distribution through donation within the State—

(A) to any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, State, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health (including research for any such purpose).

The Administrator, in allocating and transferring property under this paragraph, shall give fair consideration, consistently with the established criteria, to expressions of need and interest on the part of public agencies and other eligible institutions within that State, and shall give special consideration to requests by eligible recipients, transmitted through the State agency, for specific items of property.

(4)(A) Before property may be transferred to any State agency, such State shall develop, according to State law, a detailed plan of operation, developed in conformity with the provisions of this subsection, which shall include adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups. The chief executive officer shall certify and submit the plan to the Administrator. In the event that a State legislature has not developed, according to State law, a State plan within two hundred and seventy calendar days after the date of enactment of this Act, the chief executive officer of the State shall approve, and submit to the Administrator, a temporary State plan. No such plan, and no major amendment thereof, shall be filed with the Administrator until sixty days after general notice of the proposed plan or amendment has been published and interested persons have been given at least thirty days during which to submit comments. In developing and implementing the State plan, the relative needs and resources of all public agencies and other eligible institutions within the State shall be taken into consideration. The Administrator may consult with interested Federal agencies for purposes of obtaining their views concerning the administration and operation of this subsection.

(B) The State plan shall provide for the fair and equitable distribution of property within such State based on the relative needs and resources of interested public agencies and other eligible institutions within the State and their abilities to utilize the property.

(C)(i) The State plan of operation shall require the State agency to utilize a management control system and accounting system for donable property transferred under this section of the same types as are required by State law for State-owned property, except that the State agency, with the approval of the chief executive officer of the State, may elect, in lieu of such systems, to utilize such other management control and accounting systems as are effective to govern the utilization, inventory control, accountability, and disposal of property under this subsection.

(ii) The State plan of operation shall require the State agency to provide for the return of donable property for further distribution if such property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for such purposes within one year of being placed in use.

(iii) The State plan shall require the State agency, insofar as practicable, to select property requested by a public agency or other eligible institution within the State and, if so requested by the recipient, to arrange shipment of that property, when acquired, directly to the recipient.

(D) Where the State agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing such charges shall be set out in the State plan of operation. Such charges shall be fair and equitable and shall be based on services performed by the State agency, including, but not limited to, screening, packing, crating, removal, and transportation.

(E) The State plan of operation shall provide that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under paragraph (3) of this subsection and shall impose such terms, conditions, reservations, and restrictions in the case of any passenger motor vehicle and any item of other property having a unit acquisition cost of $3,000 or more. If the Administrator finds that an item or items have characteristics that require special handling or use limitations, he may impose appropriate conditions on the donation of such property.

(F) The State plan of operation shall provide that surplus property which the State agency determines cannot be utilized by eligible recipients shall be disposed of—

(i) subject to the disapproval of the Administrator within thirty days after notice to him through transfer by the State agency to another State agency or through abandonment or destruction where the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale; or

(ii) otherwise pursuant to the provisions of this Act under such terms and conditions and in such manner as may be prescribed by the Administrator.

Notwithstanding sections 204 and 402(c) of this Act, the Administrator, from the proceeds of sale of any such property, may reimburse the State agency for such expenses relating to the care and handling of such property as he shall deem appropriate.

(5) As used in this subsection, (A) the term "public agency" means any State, political subdivision thereof (including any unit of local government or economic development district), or any department, agency, instrumentality thereof (including instrumentalities created by compact or other agreement between States or political subdivisions), or any Indian tribe, band, group, pueblo, or community located on a State reservation and (B) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, Guam, and American Samoa.

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(Note: For entire text of Federal Property and Administrative Services Act of 1949 and amendments made to the Act, see 40 U.S.C. 471 et. seq.)